Babasaheb Dr. B.R. Ambedkar

(14th April 1891 - 6th December 1956)

Courtesy : Shant Swaroop Shant, Delhi

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Our Constitution must not be a dictatorship but must be a Constitution in which there is a parliamentary democracy, where Government is all the time on the anvil so to say, on its trial responsible to the people, responsible to the judiciary, then I have no hesitation in saying, that the principles emboded in the Constitution are as good as, if not better than the principles emboded in any other Constitution.

Constituent Assembly Debates,
Vol. 9, 17th September 1949, p. 1663

BHIMRAO R. AMBEDKAR,
M.A., Ph.D., D.Sc., Bar-at-Law.
Member Legislative Council, Bombay.

DAMODAR HALL
PAREL
BOMBAY-12.

28th Feb. 1930

To,

The Secretary, All India Depressed Classes Congress
Nagpur.

Sir,

I am in receipt of your letter dated the 27th Feb. Conveying the resolution adopted by your Reception Committee offering me the Presidentship of the session of the All India Depressed Classes Congress proposed to be held in Nagpur and asking me to let them know whether or not I accept their offer. In reply I beg to say that I am very thankful to the Reception Committee for their offer and that I have great pleasure in accepting the same.

Hoping that your efforts to organizing the Depressed Classes will be crowned with success I remain

Yours faithfully
B.R. Ambedkar

(Facsimile of Dr. Ambedkar's letter to The Secretary, All India Depressed Classes Conference, Nagpur, dated 28 February 1930.)

DR. BABASAHEB AMBEDKAR
WRITINGS AND SPEECHES
VOL. 15

(Sections I to VIII)

Edited

by

Vasant Moon

Dr. Babasaheb Ambedkar : Writings and Speeches

Vol. 15

First Edition by Education Department, Govt. of Maharashtra : 26 January, 1997
Re-printed by Dr. Ambedkar Foundation : January, 2014

ISBN (Set) : 978-93-5109-064-9

Courtesy : Monogram used on the Cover page is taken from
Babasaheb Dr. Ambedkar's Letterhead.

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Secretary
Education Department
Government of Maharashtra

Price : One Set of 1 to 17 Volumes (20 Books) : ₹ 3000/-

Publisher:

Dr. Ambedkar Foundation
Ministry of Social Justice & Empowerment, Govt. of India
15, Janpath, New Delhi - 110 001
Phone : 011-23357625, 23320571, 23320589
Fax : 011-23320582
Website : www.ambedkarfoundation.nic.in

The Education Department Government of Maharashtra, Bombay-400032
for Dr. Babasaheb Ambedkar Source Material Publication Committee

Printer

M/s. Tan Prints India Pvt. Ltd., N. H. 10, Village-Rohad, Distt. Jhajjar, Haryana

Kumari Selja

सत्यमेव जयते

Minister for Social Justice and Empowerment
& Chairperson, Dr. Ambedkar Foundation

MESSAGE

Babasaheb Dr. B.R. Ambedkar, the Chief Architect of Indian Constitution was a scholar par excellence, a philosopher, a visionary, an emancipator and a true nationalist. He led a number of social movements to secure human rights to the oppressed and depressed sections of the society. He stands as a symbol of struggle for social justice.

The Government of Maharashtra has done a highly commendable work of publication of volumes of unpublished works of Dr. Ambedkar, which have brought out his ideology and philosophy before the Nation and the world.

In pursuance of the recommendations of the Centenary Celebrations Committee of Dr. Ambedkar, constituted under the chairmanship of the then Prime Minister of India, the Dr. Ambedkar Foundation (DAF) was set up for implementation of different schemes, projects and activities for furthering the ideology and message of Dr. Ambedkar among the masses in India as well as abroad.

The DAF took up the work of translation and publication of the Collected Works of Babasaheb Dr. B.R. Ambedkar published by the Government of Maharashtra in English and Marathi into Hindi and other regional languages. I am extremely thankful to the Government of Maharashtra's consent for bringing out the works of Dr. Ambedkar in English also by the Dr. Ambedkar Foundation.

Dr. Ambedkar's writings are as relevant today as were at the time when these were penned. He firmly believed that our political democracy must stand on the base of social democracy which means a way of life which recognizes liberty, equality and fraternity as the principles of life. He emphasized on measuring the progress of a community by the degree of progress which women have achieved. According to him if we want to maintain democracy not merely in form, but also in fact, we must hold fast to constitutional methods of achieving our social and economic objectives. He advocated that in our political, social and economic life, we must have the principle of one man, one vote, one value.

There is a great deal that we can learn from Dr. Ambedkar's ideology and philosophy which would be beneficial to our Nation building endeavor. I am glad that the DAF is taking steps to spread Dr. Ambedkar's ideology and philosophy to an even wider readership.

I would be grateful for any suggestions on publication of works of Babasaheb Dr. Ambedkar.

Selja

(Kumari Selja)

Collected Works of Babasaheb Dr. Ambedkar (CWBA)

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MAHARASHTRA

FOREWORD

The present volume of the speeches and writings of Dr. Babasaheb Ambedkar covers the period from his entry into the Constituent Assembly from the pre-partition Bengal till his death on 6 December 1956. The first portion contains his speeches and writings as the Law Minister of Government of India and the last or the concluding portion contains speeches and writings when he was Opposition Member in the Parliament. Whether in the Government or in the opposition, his speeches and writings show continuity of his thought-processes and his deep dedication to the ideals of justice and fairplay. The subjects covered in the present volume are different and disparate. They appear relevant even to the present context and reflect Dr. Ambedkar's insight into the nature of political and social processes. In the course of discussion on the Representation of the People's Act, a member argued that he would allow a criminal to stand as a candidate since every adult has a right to vote and contest election. Dr. Ambedkar's answer in general was that the electoral process depended upon the general improvement in the minds of our people as a whole and that there are certain moral principles which we must assert. He foresaw that such an elevation of moral sentiments could come some day. I may quote here comments of Dr. Ambedkar on qualifications of a candidate for political office.

He said, "Now it seems to me that education can hardly be the sole qualification for membership of this House. If I may use the words of Buddha, he said that man requires two things. One is Gyan and the other is Sheel. Gyan without sheel is very dangerous : It must be accompanied by Sheel, by which we mean character, moral courage, ability to be independent of any kind of temptation, truthful to one's ideals. I did not find any reference to the second qualification in the speeches. I have heard from Members who have supported Professor

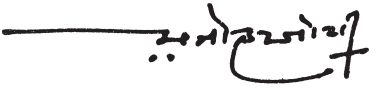
Shah. But even though I myself am very keen to see that no member enters this August Assembly, who does not possess Sheel in adequate degree, I find it extremely difficult to find any means or methods to ensure that valuable qualification."

Dr. Ambedkar pleads that while it is difficult to prescribe educational qualification for membership of Parliament, people should send good men of character. He says, "I have no doubt about it that if the political parties, for their own particular purposes do not attend to it, people are not going to allow persons who cannot discharge their functions properly in this House to be continued and returned forever. They want results, they want their welfare to be attended to, and I am sure about it that they will realise that the only instrumentality through which they can achieve this purpose is to send good men to this House. Therefore, I think the proper course is to leave the matter to the people".

The social reforms movement gained strength and undoubtedly brought about changes in the social structure, promoting in the process, equality and fraternity. The era of equality and fraternity was ushered in with the rise of the Maratha power under Shivaji, the Great who was accessible even to the lowest of the low from all sections of the society.

Dr. Ambedkar was the product of the movement for social reforms in Maharashtra initiated by Mahatma Jyotiba Phule, Justice Ranade, Agarkar, Chhatrapati Shahu Maharaj and Prabodhankar Thakre.

Dr. Ambedkar's speeches and writings in the present volume are indeed instructive and enlightening and trace the evolution of modern political institutions in the country. They truly represent a significant phase in the evolution of the Indian polity.



(MANOHAR JOSHI)

January 26, 1997 *Chief Minister of Maharashtra*

MINISTER FOR HIGHER AND
TECHNICAL EDUCATION
GOVERNMENT OF MAHARASHTRA
MANTRALAYA, MUMBAI 400 032

PREFACE

I am indeed happy to see that the Government of Maharashtra has brought out the present volume consisting of speeches and writings of Dr. Ambedkar, both as Minister in the then Government of India and Member of Opposition later. These two roles show Dr. Ambedkar at different levels of our National life. He played both the roles with ease, grace and elegance of a consummate statesman who would see far into the future and suggest ways and means to shape the national character and political Institutions. His interest in the welfare of the common man was undiminished. In fact Dr. Ambedkar was a crusader with uncommon zeal for the interest of the common man. He was generous to Government of the day while in opposition when occasion demanded, while at the same time he did not hesitate to condemn what was obviously wrong.

The history of a nation is written by the deeds of great men. An Institution is a long shadow of an individual who is a great visionary. Dr. Ambedkar was a visionary of this category, a champion of the common man with uncommon zeal for the interest of millions of men who keep the Indian democracy alive.

January 26, 1997 (DATTA RANE)

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[*Reconstituted* vide *G. R. No. DBA. 1095/(381/95)/ Samanvay, Higher and Technical Education and Employment Department, Mantralaya, Mumbai, dated 15th December 1995*]

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EDITORIAL

The present volume contains speeches and writings of Dr. Ambedkar for the period from 1947 to 1956. These speeches and writings show Dr. Ambedkar in different roles and his working at different levels, first in the Government and later as member of the opposition. However, there is continuity of thought and unity of approach in all that Dr. Ambedkar said, either in the Government or as member of opposition. One significant feature of the writings and speeches in this volume is that there is a thread of moral fervour and strident advocacy of public interest and suggestions for improving the social morality as part of the political process. The reader will notice how far-sighted Dr. Ambedkar was, when he spoke on the electoral reforms, election of candidates and question of qualifications and disqualifications. These issues are now in the forefront and the stuff of the banner lines of daily newspapers. Character was of supreme importance to Dr. Ambedkar. The character of political leadership is the sine-qua-non of the sane administration. The Government is the Trust created for the benefit of people. It is the contrivance devised by man to promote his happiness as a social being. Dr. Ambedkar has observed, "Gyan without Sheel is very dangerous; it must be accompanied by Sheel by which we mean character, moral courage, ability to be independent of any kind of temptation, truthful to one's ideals. I did not find any reference to the second qualification in the speeches I have heard from members who have supported Professor Shah, even though I myself am very keen to see that no member enters this August Assembly, who does not possess Sheel in adequate degree".

The early 50's immediately after the inauguration of the Constitution and the post-war reconstruction programmes taken up by the Government of India saw the emergence of the welfare State. Dr. Ambedkar deplores inadequate funds for welfare programmes. In fact, welfare of poorer sections

of our society had not received adequate attention and priorities were not drawn up keeping in mind the social reality, according to Dr. Ambedkar. He had said, "No hungry man is going to be sympathetic to a critic who is going to tell, him, "My dear fellow, although I am in power, although I am in authority, although I possess all legal power to set matters right, you must not expect me to do a miracle because I have inherited a past which is very inglorious " ……. "If this Government will not produce results within a certain time, long before the people become so frustrated, so disgusted with Government as not to have any Government at all, a time will come when, I suppose, unless we in Parliament realise our responsibilities and shoulder the task of looking after the welfare and good of the people within a reasonable time, I have not the slightest doubt in my own mind that this Parliament will be treated by the public outside with utter contempt. It would be a thing not wanted at all".

It is indeed a refreshing thought how India would have emerged after 50 years, had a comprehensive programme of training in different skills been attempted and the pattern of education, particularly at the High School level redrawn keeping in view, the compulsions of technology and science.

Dr. Ambedkar as member of opposition did not oppose Government he did not criticise the Treasury benches without reason. On the other hand when praise was due or when fairness or justice compelled appreciation, he did not withhold recognition. His praise and commendation of Shri C. D. Deshmukh shows his fairness as member of opposition. There is a lesson for present opposition members to be learnt from the speeches and writings printed in this volume.

The writings and speeches in this volume show Dr. Ambedkar at different levels of life reacting to the social environment and trying to shape and influence thinking of those around him. Those were the days of the Indian politics dominated by idealists and visionaries. The names of the Members of Parliament who were contemporaries of Dr. Ambedkar are names of Great men striving to raise the moral and social level of the country and trying to justify their

new-found freedom. It was an age of opportunity for great experiments in social engineering via law and though Dr. Ambedkar felt constraints within the limits of law, expressed himself frankly and fairly on a variety of topics.

Pragmatist in spirit and nationalist in outlook, interested in preserving the mosaic of unity in diversity i.e. India, Dr. Ambedkar's thoughts on reorganisation of States are worthy of serious attention even today.

The political unity of India was attained by a slow process of education, grafting of the common law in the Indian soil and the traditions of independent judiciary to correct abuses and excesses of the executive and the structure so laboriously built was required to be preserved and extended.

The princely States which merged with the Indian Union were at different levels of social and political development. Promoting the process of social growth and integration of different areas was the prime task of the executive and the legislature. The speeches and writings in this volume thus provide material of historical interest and comments on the issues of the day by highly perceptive and cultivated mind soaked in the best intellectual tradition of the West and the ethos of the East like Dr. Ambedkar. It is hoped that the present volume will be useful to scholars and laymen alike.

Dr. Ambedkar was fond of saying that "Consistency is the virtue of an ass" and apparently Dr. Ambedkar invites the charge of being inconsistent. This is more apparent than real. Dr. Ambedkar tried through his long years of struggle to improve the lot of the common man. He was the crusader of the common man. He was not reluctant to acknowledge the beneficient side of the British Parliamentary and Judicial Institutions and he believed in the rule of justice, equity and good conscience. In today's India this has critical relevance.

The work of editing of this volume has been made possible by the ready help, support and co-operation I have received:

(1) from Professor Manohar Joshi, the Hon'ble the Chief Minister of Maharashtra whose encouragement has made this work possible;

(2) from Shri Dattatraya Rane, the Hon'ble Minister for Education of Maharashtra State, who took keen interest in expediting the project for being completed speedily;

(3) from Shri Navjeevan Lakhanpal, the Principal Secretary, Higher and Technical Education, whose ready guidance and help enabled the Editor to resolve various administrative hurdles;

(4) from Shri B. M. Ambhaikar, Retired Additional Municipal Commissioner, Mumbai Mahanagar Palika, whose personal interest and guidance has been of immense help to the Editor in the editing of the volume.

Thanks are also due to:

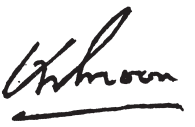
(1) Shri P. S. More, Director, Printing and Stationery and Shri P. L. Purkar, Deputy Director and also Shri P. J. Gosavi, Manager, Government Central Press, Government of Maharashtra, who have taken personal interest in expediting the printing of the volume carefully;

(2) Shri J. M. Abhyankar, Deputy Director of Education, Brihan Mumbai and Shri E. M. Meshram, Junior Administrative Officer and the staff working under them for their assistance in administrative matters;

(3) Shri D. S. Chavan, Librarian, Legislative Council Library, Mumbai for providing access to books;

(4) The staff of this office which includes Shri Ravindra Sutar, Smt. Sumitra Nevrekar and Smt. Shalaka Tambe who assisted me in the whole process of collecting and editing and cheerfully scrutinised the material in the process of printing of this volume; and

the members of the committee who stood by the Editor in every moment of this project and reposed their confidence in him and there are several well wishers and admirers of the Philosophy and spirit of Dr. Ambedkar who helped the Editor in various ways whose names are too many to be mentioned here.



Mumbai:
January 26, 1997.

(VASANT MOON)
Editor.

DR. BABASAHEB AMBEDKAR WRITINGS AND SPEECHES

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20th November 1947

TO

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SECTION I

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(1)

* FOREIGN EXCHANGE REGULATION (AMENDMENT) BILL

Mr. Speaker: Motion moved.

> "That the Bill to amend the Foreign Exchange Regulation Act, 1947, be taken into consideration."

What has the Law Member to say about the position regarding the expression 'British India'?

The Honourable Dr. B. R. Ambedkar (Minister for Law): I thought I would speak when the amendment was being moved, in reply to it. If you so desire, I shall explain the position.

Mr. Speaker: Yes, because it would save time.

The Honourable Dr. B. R. Ambedkar: Sir, we have got what is called an Existing Laws Adaptation Order in which certain terms are defined. In that order the term 'British India' is defined and is defined to mean 'all the Provinces of British India'. It is therefore open to the House to include in this particular Bill either of the two phrases which under the Adaptation Order mean the same thing. We could either use 'British India' or we could use 'all the provinces of India' which would mean one and the same thing. The question of these two alternatives and as to which of them we should adopt really has to be determined by the phraseology which has been used in the main Bill to which this Bill is merely an amendment. In the original Bill dealing with foreign exchange regulation, the term used is 'British India' and my submission is that if this amendment is to be intelligible it must use common phraseology which is 'British India'.

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* Constituted Assembly (Legislative) Debates, hereinafter called C. A. (Leg.) D. Vol. I, 20th November 1947, p. 357.

There is nothing to be lost, everything to be gained, by using the same phraseology. The amendment which is tabled is purely sentimental in my judgment and wishes to avoid the word 'British' from the text of the law.

Shri K. Santhanam (Madras : General): Not at all,

The Honourable Dr. B. R. Ambedkar: My submission is that in view of the necessity for uniformity between the main Act and the amending Act we should adopt the same pharaseology which has been used in the main Act.

Mr. R. K. Sidhwa (C. P. and Berar : General): May I know whether there is any legal difficulty if the word 'British' is omitted?

Mr. Speaker: That is exactly what the Law Member has pointed out. Without going into the merits of the case, and looking *prima facie* into what the Law Member has said, I shall curtail the discussion by saying that I refuse to give my leave to this amendment.

(2)

* APPOINTMENT OF STATUTORY LAW REVISION COMMITTEE

*** The Honourable Dr. B. R. Ambedkar** (Minister for Law): Mr. Chairman, I may at once say that the object of the Mover is quite laudable and that he has my full sympathy in the Motion that he has made. Sir, there is no doubt that periodical revisions of law in a modern society is an absolute necessity. When a popular Legislature engages itself in the task of legislation, touching every aspect of the society which it governs, there are bound to be created certain problems, which it is necessary for some expert legal body to examine and to rectify. First of all, it happens that a draftsman in order to put an idea in the form of a law suggests certain phraseology, which he thinks is appropriate and complete enough to embody the intention of the Legislature. In a certain stage the Judiciary and the Members of the profession find that the phraseology used by the draftsman is mistaken and does not carry the intent which the Legislature had. That problem therefore becomes a problem which somebody has got to look into and rectify to bring it in consonance with the original intention. It often happens that when a Legislature is engaged in of course of legislation over an extensive period certain inconsistencies unconciously creep in. It is not always possible either for the draftsman or for the legislature to examine every piece of legislation that is brought before it with a view to find out whether that piece of legislation is consistent with other legislation which has preceeded it. Therefore in course of time these inconsistencies accumulate. They trouble lawyers, they trouble judges and they also trouble the litigating public. It also often happens that in modern time when a legislature is so busy that it is unable

* C.A. (Leg.) D., Vol. II, 2nd December 1947, p. 1103-05.

to give the whole of its time to codifying the whole of the law on a particular subject it tries to discharge its responsibilities by undertaking what we call fragmentary and piecemeal legislation. This accumulation of piecemeal and fragmentary legislation again in course of time creates a problem. People cannot understand what the law is and consequently a problem of codifications arises. Therefore, it needs no special pleading to suggest that a Statute Law Revision Committee is necessary. I think the Government of India long ago accepted the necessity of having a Statute Law Revision Committee. In fact as soon as the Montagu-Chelmsford reforms came into operation and when it was found that there was a popular legislature and that popular legislature was more likely to undertake legislation of social reform than the previous legislatur had been likely to do, the Government *of India pari passau* and simultaneously with the introduction of the Montagu-Chelmsford reforms introduced and established what was called a Statutory Law Revision Committee in 1921. Therefore there is no difficulty in my accepting the underlying purpose which my honourable Friend Sir Hari Singh Gour has in mind, namely, that there should be a Statute Law Revision Committee. The only point of difference between him and me is whether we should forthwith proceed to establish a Statute Law Revision Committee that he has in mind or whether we should leave the matter to Government to think about the most appropriate time and the most appropriate machinery which could carry out the purpose which both he and myself have in mind.

4-00 p.m.

In regard to the Statutory Law Revision Committee of the type that was set up in 1921, I should like to inform the House of the work that it did and whether it could not have done something better. The Statute Law Revision Committee was appointed in 1921 and lasted up to 1932, After 1932 it died ; whether it died a natural death or an unnatural death is not a matter which I propose to disquisition about. But I should like to tell the House that during these eleven years that the Committee was in session from time to time, the work that it did was the codification of the Merchant Shipping Act, the Criminal Tribes Act, the Indian Succession Act, the

Forests Act and the Tolls Act. Now, Sir, without any intention of casting any reflection upon the work of the Committee, I think it will be agreed that the production of five laws in a period of eleven years is certainly not an enormous piece of work which could be expected from a Committee of this kind. On the other hand when the Committee was dissolved and when the responsibility fell upon the Government of India to do the work which the Committee was appointed to do—if I may say so again without reflection on the work of the Committee or without trying to take any credit for the Legislative Department of the Government of India—the Acts produced after the Committee were the Sale of Goods Act, 1930, the Partnership Act, 1932, Factories Act, 1934, Tariff Act, 1934, Petroleum Act, 1934, Insurance Act, 1938, Motor Vehicles Act, 1938 and Arbitration Act, 1940. Any one who knows these Acts will admit that each one of them is an enormous piece of legislation, The reason why the Statute Law Revision Committee failed to fulfil the promise which it was expected to fulfil was that there was a great defect in composition and constitution of the Committee. First of all, the Committee consisted of six members ; it was elected mostly from members of the legislatre. No doubt the members who were elected were elected purely on the basis of their legal knowledge and legal acumen, but in my judgment that was a pure accident. The Chairman of the Committee was the President of the Council of State. I fail to understand what virtue there was in appointing the President of the Council of State as Chairman of this Committee which, as all of us know, requires specialised legal knowledge.

The second difficulty about the Committee was that its members were not paid members. I do not wish to suggest that if members are not paid they do not discharge the duty which all people are conscientiously required to do. But it did happen, and it is a fact, that the Committee met very seldom. The members of the Committee having been drawn from the legislature met only during the sessions, and when they were asked that now that they were present in Delhi they might devote some portion of their time to the discharge of their functions as members of the Statute Law Revision

Committee, all of them pleaded that their legislative work was more important than the work of the committee. At the end of the sessions all of them naturally repaired to their homes in order to perform either their personal or their professional duties. The result was that the Committee was not able to devote all the time that it was expected to devote. Now obviously my Honourable friend Sir Hari Singh Gour will agree that if his purpose is to be carried out we must have an altogether different sort of Committee. It is no use having, a Committee of the sort that we had and which, for the reasons I have mentioned, did not fulfil the functions with which it was charged.

Now, Sir, there are two ways, in my judgment of doing the thing. First of all we might have a permanent Commission sitting for no other purpose except that of revising and codifying the statute. Secondly, if it is to be a permanent body it undoubtedly must be a body of experts who know their job. And I think every one will agree that if experts are to be called away from their professions we must make it worth their while to come and serve on the Committee. Obviously it is a matter of cost. That being so, it is not possible for me to say off-hand that without examining the question of cost it will be possible for Government to say here and now that we shall agree to appoint a Statute Law Revision Committee of any sort that might be suggested either by Sir Hari Singh Gour or by any other member of the legislature.

There is also another way of carrying the purpose into practice. That might be by the appointment of a small standing committee consisting of the Law Minister of the Government of India, a Judge of the Federal Court, the Advocate-General of India, one or two Judges of the High Courts in India and two or three eminent lawyers. The Committee might be asked to sit at stated periods of the year and a person from the Law Department of the Government of India may be deputed to act as a Secretary, to collect the information and to place it before the Committee for the Committee to take notice of what might be done.

As I say these are various ways of carrying the purpose into effect. That as I said requires time and examination and it is not possible for the Government, besieged as it is with an infinity of problems of all kinds to find time for the work which it will have to do if I were to accept the resolution of Sir Hari Singh Gour with the immediacy with which I believe he has charged it. Therefore, what I would like to suggest is this : that Sir Hari Singh Gour would realise that so far as the ultimate purpose is concerned, there is no difference of opinion between me and him. Both of us are agreed that this is a matter which the Government of India ought to take into consideration. The only difference is when and how, and that is a matter on which he need not press the Government for the immediate issue. Therefore my suggestion is this that as I have given a reply which meets more than half the ground on which he stands, I think he will agree that it will be gracious on his part to withdraw it.

*** Mr. Chairman** : Amendment (by Mr. Naziruddin Ahmad) moved:

> "That in clause 2 of the Bill, in the proposed new section 289B—
>
> (i) the word, figures, letters and brackets '57 & 58 Vict., c. 60) be omitted; and
>
> (ii) the word, figures, letters, and brackets '(57 & 58 Vict., c. 60)' be inserted in the margin."

The Honourable Dr. B. R. Ambedkar (Minister for Law): I should like to explain the position. I would say that the amendment has no substance in it. The identifying clause may either be in margin or may be in the context of the section itself. All that is necessary is that there should be some identification. Originally it is true that in all the Bills that we have presented to the Assembly, such identification references were in the margin. But recently the printers have adopted the method of giving the references in the very body of the section itself and the purpose is to economise paper. For instance, when you have to give the references in the

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* C.A. (Leg.) D., Vol. II, 2nd December 1947, pp. 1199-1200.

margin obviously you want to use a larger piece of paper. Since the war started this device was adopted just for the purpose of economising paper. I do not think there is any violation of the principles relating to drafting nor any violation of any law with regard to marginal notes. As a matter of fact marginal notes are unnecessary and need not be printed.

Shri Suresh Chandra Majumdar (West Bengal: General): There is such a thing as "inner margin" note which does not waste paper.

*** Mr. Speaker**: Amendment (by Shri M. Ananthasayanam Ayyangar) moved:

> "That in part (c) of clause 2 of the Bill, after the word 'Province' wherever it occurs the words 'or a State' be inserted."

The Honourable Dr. B. R. Ambedkar (Minister for Law): As the amendment moved by my friend Mr. Ananthasayanam Ayyangar raises a question of law, it is only right and proper that I should take the responsibility upon myself to meet the point that arises out of his amendment. No one can deny that the object underlying the amendment of Mr. Ananthasayanam Ayyangar is a very laudable one. A Bill like this which deals with the nursing profession and tries to regularize and establish that profession on a footing which would gain the confidence of all those who take service from the nurses and that it should be extended to the whole of India. I say, is a very laudable thing. But unfortunately, situated as we are, and governed as we are by the Government of India Act, 1935, as adapted, I am afraid it will not be possible to accept his amendment because I have no doubt that his amendment would make the Bill *ultra vires* of the Legislature. Sir, to explain my point I should like to state to the House that for the moment the States are linked with the Union of India in two different ways. The one way by which they are linked is what is called the standstill agreement which has been made between the Union of India and the various Indian States. The second link by

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* C.A. (Leg.) D., Vol. II, 9th December 1947, pp. 1480-82.

which the States are bound to the Indian Union are the Instruments of Accession. Now there is a fundamental difference between the two links. The standstill agreements are purely contractual. They preserve such agreements as existed between the old Government of India and the Indian States under paramountcy before the 15th of August 1947. As I said they are purely contractual. They do not confer any jurisdiction upon the Government of India to legislate either by way of altering those arrangements or making them the foundation of any law which would bind the Indian States. Therefore, so far as we are concerned, in the matter of making any law by this legislature which is intended to be applicable to the Indian States, it is quite clear to my mind that we cannot take our stand on the standstill agreement. We must therefore, rely upon the Instruments of Accession which is the only foundation which gives us legal jurisdiction to pass any law. My submission is this, that if you take the Instruments of Accession, the Instruments of Accession, as they stand now—and I shall presently explain to the House why I emphasize 'as they stand now'—this House has no jurisdiction. In the first place this legislation relates to entry No. 16 in the Concurrent field. It does not relate, so far as the matter under legislation is concerned, to the Federal List or to the Provincial List. It relates only to the Concurrent List. Now, as everybody is aware, the Instruments of Accession, whatever power they give to the Central Legislature to legislate, definitely exclude all items which are included in the Concurrent List. I should have thought that by that very proposition, that the Concurrent Lists are not covered by the Instruments of Accession, the jurisdiction of this House is completely ousted. The only thing therefore that we have to find out is whether the Instruments of Accession which have been passed by the different States in favour of the Union of India cover anything which relates or which is equivalent to entry No. 16 in the Concurrent List. Now, Sir, these Instruments of Accession were placed on the Table of the house, and anybody who has had the time to scrutinize them would have found that the States have acceded only in respect of three subjects, and none of the subjects can be so interpreted

as to include an item like item No. 16 in the Concurrent List. Therefore, my submission is this, that even if we were to rely upon the Instruments of Accession, this House cannot derive any jurisdiction from those Instruments of Accession, My Honourable friend Mr. Ananthasayanam Ayyangar evidently realised this difficulty and put forth the proposition which he said was capable of being adopted by this House in order to extend the legislation to the Indian States. His proposition was this. There have been many pieces of legislation passed by this House which were limited in the first instance to certain areas, such as for instance a province or a district or any smaller area, and the Bill included a clause which enabled the executive, by a notification, to extend that particular legislation to other areas not originally included in the Bill. Now that proposition, so far as it applies to the provinces of British India, is perfectly sound. But if it were to be applied to the Indian States, it would be wholly unsound, and the reason is this. The analogy is absolutely false and not true. Now Sir, when we apply the legislation, which is originally in the Bill itself confined to a particular area, to another area not made subject to that at the time when the Bill was passed, the position is this, that the area over which the legislation is subsequently extended to is not subject to the jurisdiction of that legislation. If the legislature wanted in the very first instance to apply that law to that area, nothing in the constitution of this Government or in the powers of the legislature could prevent the legislature from doing so. So far as the States are concerned, we have jurisdiction over their territory with regard to three subjects only; we have not got full jurisdiction. We are not limiting our jurisdiction when we are legislating with respect to a State in respect of the three subjects ; we are in fact spending our legislative authority to the fullest extent that we have. The analogy, therefore, is not a correct analogy. So far as the Provinces are concerned, we have at the moment, when we are enacting the law, jurisdiction which we would exercise if we wanted to do so. That is not the case with regard to the Indian States. True enough, if a supplementary Instrument of Accession was passed we could get the jurisdiction necessary for the purpose of enacting the law; but what I

would like to submit to my friend Mr. Ananthasayanam Ayyangar is that the law can never be hypothetical and a law can never be passed in anticipation of some jurisdiction being acquired. That is contrary to the principle of legislation. Law must be definite, law must be absolutely clear as to what it applies, to what it cannot apply. And therefore, unless and until we have with us a supplementary Instrument of Accession giving the Central Legislature the power to extend this legislation to the States, I am sure we could not anticipate that there might be an Instrument of Accession which the Governor-General might accept and then we might get a chance to extend this legislation. I am sure that is contrary to the principles of legislation. All that, therefore, we must hope for, for the moment, is to confine the Bill to the Provinces of British India, to hope that we will get similar Instruments of Accession—supplementary ones—from the Indian States, when we can by law either extend our legislation to the States or the States can *pari passu* along with this legislation have similar legislation in their own States and make the provisions of this law applicable to their territory. Sir, I therefore think that this amendment would make the Bill *ultra vires* and therefore could not be accepted.

Mr. Speaker : The point has been cleared. Does the Honourable Member press his amendment now ?

Shri M. Ananthasayanam Ayyangar : I do not, Sir.

Mr. Speaker : Has the Honourable Member leave of the House to withdraw his amendment?

The amendment was, by leave of the Assembly, withdrawn.

Mr. Speaker : The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

(3)

INDIAN NURSING COUNCIL BILL

*** The Honourable Dr. B. R. Ambedkar :** The position is, as I said on the last occasion this legislation refers to entry No. 16 in the Concurrent Legislative List. The executive authority with regard to the legislation framed under the Concurrent Legislative List does not vest in the Central Government. Rule making has been interpreted to be in exercise of the executive authority and the Central Government does not possess that executive authority and therefore, they cannot make the rules. The rules may be made by somebody else. If my Honourable friend objects to the President making the rule, he may suggest some other method to making them, though he certainly cannot make any amendment whereby the responsibility or the authority for making the rules shall be vested in the Central Legislature. Section 8(1) of the Government of India Act and section 49(2) of the Government of India Act of 1939 are quite clear on this point.

Shri K. Santhanam : Here again, I find that it is rather a curious law that has been expounded the Central Government cannot make rules. A nominee of the Central Government can make rules but not the Central Government. The present proposal is that the President should be nominated by the Central Government and he may make rules. After all it is a Council of All India and I cannot see any authority in the Government of India to make rules. It is only so far as Provincial Councils are concerned that directions cannot be issued. I therefore think that the law as expounded is altogether wrong. The Central Government should have the power. I, therefore, suggest that the amendment should be accepted.

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* C.A. (Leg.) D., Vol. II, 8th December 1947, p. 1486.

(4)

*EXTRA PROVINCIAL JURISDICTION BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law)**:** Mr. Speaker, I stand to make just a few observations in order to clear some of the doubts and suspicious which have been expressed by Members of the Assembly who have so far taken part in the debate.

Sir, the one point which was made by the Honourable Mover of the amendment was that this Bill was reviving the jurisdiction of paramountcy which was abolished by the Indian Independence Act. Now, it is quite true that the Indian Independence Act releases the Indian States from all the obligatious that were imposed upon them by virtue of paramountcy. But, I think, what that means is this, that the Dominion Government cannot as a succession State inherit the jurisdiction which arose out of paramountcy. It means nothing more than that ; it does not mean that any Indian State could not confer by an agreement upon the Dominion Government the rights and jurisdictions which were exercised by the British Government as against that Indian State. I think that point has been clearly lost sight of and I should like to repeat it again that what the Independence Act means is this; that the Dominion Government cannot be regarded as a succession State to the British Government in so far as Paramountcy is concerned. It certainly does not mean that if an Indian State chooses, for reasons which it thinks are imperative, to confer jurisdiction of the analogous type that arose out of Paramountcy upon the Dominion Government, there is anything either in the Government of India Act or in the Indian Independence Act to prevent that Indian State from doing so. I think that point has to be clearly borne in mind. When the question is raised as to which are the Indian States to which this particular Bill and its provisions would

* C. A. (Leg.) D., Vol. II, 9th December 1947, pp. 1559-61.

apply, the answer to the question must be related to the Instruments of Accession which have been passed by the various Indian States in favour of the Dominion Government of India. Therefore, in order to understand what are the States to which this Bill applies, what we have to do is go to the Instruments of Accession and find out what is contained therein. As the House knows, so far as the accession of Indian States is concerned, they are divided into three categories: (1) fully jurisdictional States, (2) semi-jurisdictional States and (3) non-jurisdictional States. All the three classes of States have passed, barring a few exceptions here and there, Instruments of Accession in favour of the Indian Dominion. Now if Honourable members were to refer to the Instrument of Accession passed in Labour of the Dominion of India by States which fall in class (2) they will realise that their Instrument of Accession contains this very important clause which in order to remove all doubts and suspicious, I propose to read with your permission, Sir. This is the paragraph 1:

> "And I further declare that the Dominion of India may through such agency or agencies and in such manner as it thinks fit exercise in relation to the administration of the civil and criminal justice in this State all such powers, authority and jurisdiction as were at any time exercisable by His Majesty's representative for the exercise of the functions of the Crown in its relation with the Indian States."

That, I submit is a very important clause in the Instrument of Accession passed by the semi-jurisdictional States. Now if my honourable friends will turn to the third category of States and read the Instrument of Accession passed by them, it reads as follows :

> "Whereas ... of the said State or Taluka, am desirous that the Dominion of India should exercise in relation to the said *taluka* or state all the powers and jurisdictions which were exerciseable before such attachment by His Majesty's representative for the exercise of the functions of the Crown in its relation with the Indian States," etc.

This is a clause which finds a place in the Instruments of Accession of the States falling in the second category or the third *category*; it has not found a place in the Instruments of Accession passed by the States which fall in the first category, namely, fully jurisdictional States. Obviously two

things follow from this. The first is that this Bill does not apply to those States whose Instrument of Accession does not contain this clause; secondly, that this applies only to those States whose Instrument of Accession contains such a clause and which have voluntarily granted to the Dominion Government the rights, whether they arose out of treaty or sufferance or usage, which were exercised by the British Government; they have transferred them voluntarly to the Indian Dominion, and they may do so in future. Now the point is that all that the Bill does is this that wherever any State has granted to the Dominion jurisdiction by virtue of its Instrument of Accession the Central Government will have the legal authority to exercise that jurisdiction. There is no case of usurpation at all; it is merely giving legal authority to rights and jurisdictions which have been voluntarily transferred by the Indian States to the Dominion of India. Therefore the first thing that I should like to emphasise is that there is no clandestine effort in the Bill to usurp any authority as against any Indian State which has not voluntarily surrendered its authority in this respect to the Dominion Government. I think that ought to put at rest all the doubts and suspicions which have been expressed in this House with regard to this Bill. And I do not think that if honourable Members bear in mind what I have stated there will be any necessity for very many of the amendments which I find on the order paper.

I do not want to say anything more because that is all that I wanted to say but my honourable friend Mr. Santhanam while making his observations on the Bill said that there was an inconsistency in the position which I took yesterday and the position as it arises from this Bill. I think my honourable friend Mr. Santhanam must have completely misunderstood what I said yesterday. What I said then was that having regard to the fact that the Nursing Bill had reference to entry No. 16 in the concurrent legislative list there was never any possibility of the Dominion Government acquiring any jurisdiction because the Instruments of Accession and the Indian States have made it absolutely clear that if they at all join the Indian Union they will join it only with respect

to list No. 1 which is a Federal List and that too with respect to some subjects only. Therefore my contention was that there was not even the remotest possibility, having regard to these circumstances, that the Indian Dominion should acquire any jurisdiction. And so any sort of legislation which he wanted to be introduced by his amendment to clause 1 would be purely speculative. Here so far as this Bill is concerned, there is nothing inherently impossible in the Indian Dominion acquiring further jurisdiction of an extra-provincial character, and therefore a legislation which looks in the application of this by anticipation would not be speculative because the possibility is always there. I therefore submit that there is no inconsistency in the two positions I have taken.

*** Mr. Speaker :** I suppose the Honourable Member wishes to move the amendment at present.

Shri Himmat Singh K. Maheshwari : Yes and I would be grateful for a reply to the point that I have raised. Sir, I move:

> "That in part (a) of clause 2 of the Bill for the words 'treaty, grant, usage, sufferance or other lawful means', the words 'treaty or agreement' be substituted."

Mr. Speaker : Amendment moved :

> "That in part (a) of clause 2 of the Bill, for the words 'treaty, grant, usage, sufferance or other lawful means', the words treaty or agreement be substituted."

The Honourable Dr. B. R. Ambedkar : Mr. Speaker, Sir the two amendments although they are set out under different headings are in substance one. The amendment No. 10 may be put as the result of amendment No. 9 and from that point of view, there is no difference between the two. The aim of both the Honourable Members who have tabled this amendment is to delete the word "grant, usage and sufferance". I think that is what they want to do and in so far as that is their object, I have no doubt that the two amendments are one and the same.

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* C. A. (Leg.) D., Vol. II, 9th December 1947, pp. 1571-72.

Sir, I am sorry to say that I cannot accept this amendment and I am also sorry to say that the amendment has been based upon a misunderstanding. First of all, I should like to say with regard to the amendment moved by Mr. Naziruddin Ahmad that item (iii) in his amendment is entirely out of place. Tribal areas are part of British India or the Indian Dominion. Secondly there is no question of the Indian Dominion acquiring any extra territorial jurisdiction so far as the tribal areas are concerned. What does the honourable Member want to do ? The Honourable member, if I understood correctly, wants to say that whatever extra territorial jurisdiction which the Dominion of India can exercise must be relatable to the Instruments of Accession. I think that is the sum and substance of his position and he wants to make it clear that the jurisdiction which the Central Government may exercise under the provisions of this Act must be in turn sanctioned by the Instruments of Accession.

Mr. Naziruddin Ahmad : That is also conceded to by the Government.

The Honourable Dr. B. R. Ambedkar : Now, sir, does the Act do anything different from what my honourable Friend wants us to do in this Bill ? As I have stated, what the Instruments of Accession passed by the Indian States enable the Central Government to do is to exercise all such powers, authority and jurisdiction as were at any time exercisable by His Majesty's representative for the exercise of the functions of the Crown in relation to the Indian States. That is what the Instruments of Accession passed by the Indian States empower the Central Government to do, to exercise all such powers, authority and jurisdiction as were at any time exercisable by His Majesty's representative. Let us go back to the question and ask what are the powers which His Majestys representative was exercising in relation to the functions of the Crown in relation to the Indian States. Any one who reads the Foreign Jurisdiction Act passed by the Indian Legislature where the powers, authority and jurisdiction which were exercised by the representatives of His Majesty exercising the functions of the Crown in relation to the States, are described in the very precise terms which are used in

part (a) of clause 2, namely "treaty, grant, usage, sufferance or other lawful means". These are exactly the words that occur in the Indian Foreign Jurisdiction Act and they are the words which we have adopted in our Act because the Instruments of Accession passed by the Indian States give all the power which His Majesty's representative exercises in relation to the States and Paramountcy. Therefore, it seems to me purely tautological whether you say that you derive your powers from the Instruments of Accession or whether you say that you use the powers given to you by "treaty, usage, sufferance and so on" which were the modes by which power was acquired by the Paramount authority, I see no difference at all. It is one and the same and therefore, I submit that apart from the difficulty that I have pointed out that you cannot accept an amendment relating to the Tribal area, this amendment seems to be utterly based upon some confusion of understanding of the real position and seems to me to be tautologous and it is nothing more than what has already been done in the Bill.

Shri M. Ananthasayanam Ayyangar (Madras : General): My Honourable friend the Minister for Law referred to the Foreign Jurisdiction Act. I come much nearer to the Indian Independence Act itself. Under clause 7 of the Indian Independence Act to which reference is made in this amendment of my Honourable friend, the Mover of the amendment, paramountcy lapses. How is it that Paramountcy conferred under the second part of the Accession which the Honourable the Law Minister read, exercised ? I will read the relevant clause in the Indian Independence Act:

> ".....and all powers, rights, authority or jurisdiction exercisable by His Majesty on that date in or in relation to Indian States by treaty, grant, usage, sufference or otherwise."

These are the very words that have been copied.

Mr. Naziruddin Ahmad: This has now lapsed.

* EXTRA PROVINCIAL JURISDICTION BILL—*contd.*

The Honourable Dr. B. R. Ambedkar (Minister for Law): If this clause 6 had been described by a Member of the Legislature who is not a lawyer as an unusual thing, I would not have any complaint: But I think for a lawyer to get up and say that this clause is not only unusual and strange, but cuts at the very foundation in the judiciary, I cannot help expressing my surprise. Sir, as every lawyer knows, the law makes a distinction so far as right are concerned between two sets—political rights and rights which are justiciable. Justiciable rights must always be determined by a judicial decree founded upon evidence produced by the parties before the court. But the political right, and I shall presently explain what is meant by political right, is never submitted to a court in the ordinary sense of the word. Now rights, whether they are contractual or otherwise, between two states are never regarded as justiciable rights. They are always regarded as political rights : and that is the one reason why this clause has been introduced into this Bill. The extraterritorial jurisdiction which is being conferred by the Indian States upon the Indian Dominion is a matter between, two states, and not between two individuals; and being a matter between two states, obviously all the matters connected with that jurisdiction are political rights, and as such they cannot be left to the judiciary to determine. This clause, as I said, is in no sense an unusual one, for if my honourable Friend refers to the British Act, on which this one is modelled, and refers to clause 4, he will find, the language of clause 6, is absolutely the same as the language of clause 4. Now, my honourable Friend also said that he was aware of certain provisions in the Evidence Act where a certificate given by a Secretary of a Department of the Government of India was said to be conclusive evidence of his authenticity, but it was never accepted as deciding the status of any particular individual. I am sure that he must have forgotten Section 86 of the Civil Procedure Code. If he refers to the Civil Procedure Code, Section 86, he will find therein a provision

* C.A. (Leg.) D., Vol. II, 9th December 1947, pp. 1580-82.

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which is very much analogous to the provisions contained in clause 6 of this Bill. Section 86 of the Civil Procedure Code relates to a suit against an Indian Prince or a foreign Envoy or any such person occupying the capacity or status of a non-Indian citizen. It is provided by Section 86 of the Civil Procedure Code that no suit against an Indian Prince can proceed unless and until the party suing the Indian Prince secures the consent of the Secretary of State that he may be sued. The object underlying Section 86 is to give the Government of India an opportunity to express an opinion whether they regard the particular Prince who is sued, as entitled to the status of a sovereign Prince. If they think that he is entitled to the status of a sovereign Prince, we issue a certificate that he is a sovereign Prince, and the moment that certificate is issued the matter becomes a political matter and ceases to be justiciable in the ordinary sense and the suit falls through. There is nothing unusual in it.

My honourable Friend wants me to state the reason for this somewhat anomalous position which the law recognises not only in this country but in every other country. I could state for his information the reason why this distinction is made. Sir, supposing the Department of a State upon the assumption that a particular Prince is a sovereign Prince deals with him on that basis, and suppose that if the question of his status was left to be decided by an ordinary court of law, where evidence was brought in, and the court came to the conclusion that he was not a Ruling Prince in the sense of a Sovereign Prince, what happens ? We have in a situation like this two conflicting decisions—one decision given by the judiciary and another decision given by the State and both are irreconcilable. In such a situation the execution of a decree becomes absolutely impossible. In England, as my honourable Friend knows, there is no such thing as an Evidence Act, but there is a very well-established rule which the British Judiciary has adopted that in matters of this sort where they are likely to come into conflict with the Political Department

of the State, they shall not entertain a plea and give a judgment because after all the judgment on a decree of the Judiciary has to be executed by the Department of the State and they do not want themselves to be entangled with the State Department. That, I think, is a very salutary reason why the courts themselves have abnegated the right of exercising any jurisdiction in a matter which is likely to be political.

I submit, therefore, that this clause, clause 6, is a very right clause, appropriate, and should remain in the Bill as it is.

Mr. Chairman : The question is :

"That clause 6 stand part of the Bill."

The motion was adopted.

(Clause 6 was added to the Bill.)

(5)

FEDERAL COURT (ENLARGEMENT OF JURISDICTION) BILL

*** The Honourable Dr. B. R. Ambedkar** (Minister for Law)**:** Sir, I beg to move for leave to introduce a Bill to provide for the enlargement of the appellate jurisdiction of the Federal Court in Civil cases.

Mr. Speaker : The question is :

> "That leave be granted to introduce a Bill to provide for the enlargement of the appellate jurisdiction of the Federal Court in Civil cases."

The motion was adopted.

The Honourable Dr. B. R. Ambedkar : Sir, I introduce the Bill.

** FEDERAL COURT (ENLARGEMENT OF JURISDICTION) BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law)**:** Sir, I move:

> "That the Bill to provide for the enlargement of the appellate jurisdiction of the Federal court in civil cases be taken into consideration."

The Federal Court as constituted under the Government of India Act as adapted, exercises three kinds of jurisdiction :

(a) Original jurisdiction under section 204;

(b) Appellate jurisdiction over High Courts under section 205 ; and

(c) Advisory jurisdiction under section 213.

The present Bill is concerned only with the appellate jurisdiction of the Federal Court. As I said, the appellate

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* C.A. (Leg.) D., Vol. II, 9th December 1947, p. 1546.

** C.A. (Leg.) D., Vol. II, 11th December 1947, pp. 1708-11.

jurisdiction of the Federal Court under Section 205 is a very limited jurisdiction. It is confined in the first place only to those cases in which the issue involved is the interpretation of the Constitution, that is to say, the interpretation of the Government of India Act, 1935.

Secondly, this limited jurisdiction accrues to the Federal Court, only if the High Court, after deciding a case before it gives a certificate to the effect that a question regarding the interpretation of the Constitution is involved,

It is only when these two conditions are satisfied, namely, that there exists an issue relating to the interpretation of the Constitution : and secondly, when the High Court has given a certificate that an appeal can go to the Federal Court under section 205.

The result of this limitation is this. All other appeals from the High Court in which questions relating to the interpretation of laws, other than the Constitution or those in which the interpretation of the Constitution is involved but where the High Court has not given a certificate, go directly to the Privy Council without the intervention of the Federal Court.

The object of this Bill is to prevent direct passage of appeals from the High Court to the Privy Council. In other words, the aim of the Bill is to make it compulsory that all civil appeals which arise from the judgment or decree of the High Court shall in the first instance go to the Federal Court.

The method adopted by the Bill to achieve this object is as follows :

> What the Bill first does is to fix a day, which is the first of February, and which in the Bill is called "the appointed day". The next thing that the Bill does is after the appointed day no appeals shall go to the Privy Council directly from the High court unless and until the appeal falls in a category of what is called "a pending appeal". If an appeal on the first day of February can be described within the terms of this Bill as "a pending appeal" then the appeal shall

be continued to be heard and decided by the Privy Council. But if on that day the appeal is not "a pending appeal" within the definition of this Bill, then the jurisdiction of the Federal Court extends to such an appeal as the Federal Court gets a right to hear and decide such an appeal.

Section 7 of the Bill describes what is "a pending appeal". Now for this purpose a rough and ready made rule has been adopted in the Bill. The rule is this : that if the records of an appeal are transmitted by the High Court to the Privy Council on the appointed day or before the appointed day, then the appeal is a pending appeal and the Privy Council continues to exercise its jurisdiction to hear such an appeal, although it is a direct appeal.

If on the other hand the appeal is in such a state that the records have not been transmitted, then the appeal becomes automatically transferred so to say to the Federal Court and the Federal Court gets the right to hear the appeal.

Appeals to the Privy Council go in two different ways. They go under what are called the provisions of the Civil Procedure Code, Sections 109 and 110, which are called appeals by grants or they are appeals where the party have a right to appeal. In addition to that the Privy Council also has got the right to give special leave to appeal and when a party obtains special leave to appeal, such appeals also go to the Privy Council. Appeals which go to the Privy Council directly from the High Court on special leave being granted by the Privy Council, are also dealt with in Section 5 of the Bill. The provision there is this:

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> "Every application to His Majesty in Council for special leave to appeal from a judgment to which this Act applies remaining undisposed of immediately before the appointed day shall on that day stand transferred to the Federal Court by virtue of this Act."

If it is disposed of, that is to say, if it rejected no further question arises. If it is admitted then the Privy Council will be competent to deal with it. But if the Privy Council has not passed any order, then such an appeal shall be deemed to be transferred to the Federal Court and the Federal Court will have the right to dispose of the matter.

I should like to tell the House in very concrete terms what this Bill does and what it does not do. I have told the House what this Bill does. I will tell the House now what this Bill does not do.

In the first place, it does not abolish appeals to the Privy Council in criminal matters. Criminal matters can still be entertained by the Privy Council from the Judgments of the High Courts. Secondly, it does not abolish appeals to the Privy Council from courts which are not high courts, that is to say, the courts of the Judicial Commissioner of Ajmer-Merwara or of Coorg. Thirdly, it does not abolish appeals to the Privy Council from the judgment of the Federal Court.

The House would probably like to know why these deficiencies have been retained in the Bill and why we have not been in a position to provide in this Bill for the complete transfer in all cases, criminal or civil, from the High Court to the Federal Court and From the Federal Court to the Privy Council. The reasons are to be found in certain limitations from which the Dominion Legislature, *i.e.,* the Constituent Assembly (Legislative) suffers. As members of the Assembly would realise we are exercising the powers for enlarging the jurisdiction of the Federal Court, which are given to us by Section 206 of the Government of India Act. If Honourable Members would refer to Section 206 they will see that it is a sort of section which gives constituent powers to this Assembly enabling it to alter the provisions of section 205 of the Government of India Act, 1935. Section 206 says :

> "(1) The Dominion Legislature may by Act provide that in such civil cases as may be specified in the Act an appeal shall lie to the Federal Court from a judgment, decree or final order of a High Court without any such certificate as aforesaid.
>
> (2) If the Dominion Legislature makes such provision as is mentioned in the last preceding sub-section consequential provision may also be made by Act of the Dominion Legislature for the abolition in whole or in part of direct appeals in civil cases from High Courts to His Majesty in Council, either with or without special leave."

Sub-section (3) requires the sanction of the Governor-General.

Anybody who reads section 206 will find that although the power to amend and enlarge the jurisdiction of the Federal Court is given to this Assembly, it is limited in certain particulars. It is limited to civil cases. Therefore no provision can be made for the abolition of direct appeals in criminal matters. Secondly, it refers to direct appeals, that is to say appeals from the High Court to the Privy Council. The reason why we are not able to abolish appeals from the Federal Court to the Privy Council is because of the existence of Section 208 in the Government of India Act. Section 208 says: (a) that an appeal will lie to His Majesty in council from a decision of the Federal Court, from any judgment of the Federal Court given in the exercise of its original jurisdiction in any dispute which concerns the interpretation of this Act and (b) in any other case, by leave of the Federal Court or of His Majesty in Council. What I wanted to tell the House was that if it was desirable to abolish all appeals to the Privy Council and to enlarge the jurisdiction of the Federal Court in as complete a manner as we want to do for that purpose we would have been required to hold a session of the Constituent Assembly and ask the Constituent Assembly to pass a Bill, which it can do, notwithstanding any limitation in the Government of India Act 1935, for the simple reason that the Constituent Assembly is a sovereign body and is not bound by the provisions of the Government of India Act, 1935. The position of this Legislature which is spoken of as the Dominion Legislature is very different. It is Governed by the Government of India Act of 1935 and therefore it must conform in anything that it wants to do to such provisions of the Act which permit it to do what it wants to do. As I said, the only permissive section which we have in the Government of India Act is Section 206 and we have taken the fullest liberty of this section to enlarge the jurisdiction of the Federal Court to the fullest extent possible. The deficiencies in the Bill I do not think need worry any Members of the Legislature for the simple reason that this Act will be in operation only for a very short time. As soon as our constitution is framed and a passed by the Constituent Assembly, we shall then be in a position to make the amplest provision for the jurisdiction of the Federal Court and to abolish appeals to the Privy Council. For the moment I think the house must be satisfied with what is done under Section 206. Sir, I move.

Mr. Speaker : Motion moved :

"That the Bill to provide for the enlargement of the appellate jurisdiction of the Federal Court in civil cases be taken into consideration."

*** The Honourable Dr. B. R. Ambedkar :** Sir, I am grateful to the House for having expressed its general satisfaction with this Bill. I will, therefore, deal only with certain points of criticism which have been raised by certain Honourable Members who have taken part in this debate. The first point of criticism relates to what I might call a timidity for my not going the whole hog and abolishing appeals to the Privy Council and conferring the fullest jurisdiction on the Federal Court. I am told that I am making a sort of artificial distinction between this Legislature and the Constituent Assembly and that I am for no reason limiting the powers of this House. I am sure that that is criticism which, to put it mildly, is certainly far from valid. I cannot accept the proposition that this legislature as distinguished from the Constituent Assembly is a completely sovereign body, as complete as the Constituent Assembly itself. It is true that the same members who sit in this House sit in the Constituent Assembly, so that in regard to the personnel there is no distinction. But I have not the slightest doubt in my mind that so far as functions are concerned the two Assemblies are quite different. The function of the Constituent Assembly is to make the constitution and in making that constitution it is bound by nothing except by its own vote. So far as this Assembly is concerned, it is bound by the Government of India Act, 1935 ; that is the constitution which is binding upon this legislature. Except the British Parliament which has both sorts of powers, namely, ordinary legislative powers as well as constituent powers, I do not know of any Assembly anywhere which has got a written constitution which possesses powers to override a constitution which has created that particular legislature. I therefore submit that I am on perfectly strong and stable footing when I say that in carrying

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* C. A. (Leg.) D., Vol. III, 11th December 1947, pp. 1719-22.

out the provisions of this Bill we must be bound by the limitations that have been imposed upon this legislature by the Government of India Act, 1935 as adapted.

I will now turn to the other criticism expression to which was given by my Honourable Friend Shri Alladi Krishnaswami Ayyar. With regard to his amendment I do not want to say that I regret that the amendment is something which I could not accept. All that I want to say is that according to my reading of the situation that amendment is probably unnecessary, and I will explain to him why I take that point of view. The ground that he urged for the amendment was that the Privy Council in a certain case decided in 1940 (as reported in the Punjab Co-operative Bank *versus* Commissioner of Income-Tax) stated, according to him, that they would not entertain any point relating to the consideration of the constitution of the High Court had not given a certificate ; therefore the Privy Council said that they would have to send that case back to the High Court for a certificate. His argument was that the decision of the Privy council in this case may also be accepted by the Federal court as binding upon itself; and therefore, wherever there was no certificate given and the matter came up before the Privy Council—and as a matter of fact it was found that a question relating to the constitution did arise—the Privy. Council would find itself unable to deal with that appeal. I think that was the sum and substance of his argument. Now what I would like to point out is that I think he has read a little more into the judgment of the Privy Council than it really says. I will read a few lines from the judgment. They have laid down three propositions which they say would arise in the consideration of section 205. the second proposition is the only one which is relevant to our purpose.

> "Secondly, if in the absence of a certificate it appears to the Board on an appeal that there is ground for thinking that that is a matter for the consideration of the High Court and that they ought to have given or ought to have withheld the certificate, the Board ought to decline to hear an appeal until the High Court had an opportunity of doing one or the other."

That is what the Privy Council have laid down, Now my submission is that this matter was as matter of fact considered by the department when this Bill was drafted, and it was felt that after all in the observations made by the Privy Council they have not said that they do not possess jurisdiction in a case of this kind. All that they have done is to lay down a sort of rule of prudence that if a case came in for which there was no certificate they would not deal with it directly—not they had no power to deal with it—but would send the case back to the High Court. Therefore, it does not mean that the Federal Court which under our Bill would be inhearing the jurisdiction of the Privy Council would have no jurisdiction because the Privy Council has laid down no such rule at all.

My second submission is that assuming that the Privy Council's dictum does go to the question of jurisdiction, is it necessary for us to presume that the Federal Court in exercising a new jurisdiction which we are giving to it would accept what has been laid down by the Privy Council ? The Federal Court would be free to give its own interpretation. It may say that notwithstanding that that certificate was not given, we shall entertain the question and decide it.

Thirdly, the Privy Council has also got the power to give special leave and they may give special leave and get over the difficulty. What I am trying to do is to explain to the House that we did not incorporate the sort of provision which my Honourable friend Mr. Alladi Krishnaswami has tabled in his amendment. But if eminent lawyers in this House think that we ought not to leave this question in doubt, and I find that he is supported by my friend, Bakshi Tek Chand, I myself would raise no objection to the amendment if they insist that the amendment should be introduced in the Bill.

Then the question was raised with regard to the Courts of the judicial Commissioners of Ajmer-Merwara and Coorg. It is quite true that it would be very anomalous that we should stop direct appeals from the High Court to the Privy Council and allow appeals from Judicial Commissioners to go to the Privy Council without the intervention of the Federal Court. The anomaly is patent and nobody can deny it. But the question is this : that unless and until we declare the Courts of the Judicial Commissioners as High Courts, we could not make this Bill binding upon them. Now I am told that the

question of the declaration of the Judicial Commissioners Courts as High Courts would involve certain administrative problems. For instance, all the provisions in the Government of India Act relating to High Courts would have to be applied to the Judicial Commissioners before they become High Courts. It seemed to me that might create complications and that is the principal reason why we did not think it advisable at this stage to extend the provisions of this Act to the Judicial Commissioners. After all, as I said, this Bill will be of a temporary duration. It may not be in operation for more than two or three months, and I do not think that within these two or three months any very large number of appeals from the Courts of the Judicial Commissioners are likely to come to the Privy Council.

Therefore, I submit, rather than face the difficulties that may arise out of administrative considerations, it might be better for this House to suffer the anomaly and let the position stand as it is.

With regard to the question of criminal appeals that matter has been fairly disposed of by my friend who spoke before me, and therefore I do not think it necessary for me to touch upon that matter at all.

Mr. Speaker : I might just state what I was feeling about the amendment. In case the Honourable Law Minister is inclined to accept it, isn't it likely that an objection might be raised about the competence of this Legislature inasmuch as the amendment uses the words "notwithstanding anything contained in section 205 of the Government of India Act"?

The Honourable Dr. B. R. Ambedkar : That also is a point.

Mr. Speaker : So that will also have to be considered. The House will be rising and in the recess the Law Minister may consider this point.

The Honourable Dr. B. R. Ambedkar : Yes, I will consider it.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at half Past a of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Mr. Speaker : The question is :

"That the Bill to provide for the enlargement of the appellate jurisdiction of the Federal Court in civil cases be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

The Honourable Dr. B. R. Ambedkar : Sir, with regard to clause 3 I would like to move an amendment. I move:

"That in clause 3—

(1) The word 'and' at the end of sub-clause (a)(ii) be omitted;

(2) The following be inserted as sub-clause (b):

*(b) in any such appeal as aforesaid, it shall be competent for the Federal Court is consider any question of the nature mentioned in sub-section (1) of section 205 of the Government of India Act, 1935; and

(3) The existing sub-clause (b) be re-lettered as s sub-clause (c)."

Mr. Speaker : I suppose this is an agreed amendment. **The Honourable Dr. B. R. Ambedkar :** Yes, Sir.

Mr. Speaker : Amendment moved.

"That in clause 3—

(1) The word 'and' at the end of sub-clause (a) (ii) be omitted;

(2) The following be inserted as sub-clause (b):

'(*b*) in any such appeal as aforesaid, it shall be competent for the Federal Court to consider any question of the nature mentioned in sub-section (*1*) of section 205 of the Government of India Act, 1935'; and

(3) The existing sub-clause (b) be re-lettered as sub-clause.(c)."

*** Mr. Speaker :** Amendment moved :

"That after clause 5 of the Bill, the following new clause be inserted, namely:

'5A. After the appointed day, any party to an appeal pending before His Majesty in Council, before that day, may apply to the Federal Court to withdraw the appeal to its own file, if the appeal

* C.A. (Leg.) D., Vol. II, 11th December 1947, p. 1725.

is one which it filed after the appointed day before the Federal Court it could have jurisdiction under this Act to entertain it; and the Federal Court may after notice to the other party to the appeal withdraw the appeal to its own file on such terms and conditions as it may deem fit' ".

The Honourable Dr. B. R. Ambedkar: Sir, I cannot accept this amendment. My honourable Friend has not defined what is a pending appeal. The Bill defines a pending appeal. An appeal where papers have been despatched is deemed to be a pending appeal under the Bill. After the papers have been despatched there is no provision in this Bill for withdrawal for the simple reason that it is presumed that when papers and documents have been despatched, the parties have incurred all liabilities for payment of such costs as may be involved in that appeal, and there is therefore no reason why the appeal should be transferred to the Federal Court with the obligation of a double expenditure once at the Privy Council end and once here: and I, therefore, think that we have to look at it purely from the point of view of the costs to the litigant. If sufficient costs have been incurred, then, I think it is not right that the appeal should be transferred to the Federal Court. No doubt here there is provision that the terms of such transfer and withdrawal may be prescribed by the Federal Court. But I think it would be putting an unnecessary obligation upon the parties which they may not voluntarily accept and I therefore think that the provisions contained in the Bill ought to be regarded as satisfactory at the present stage.

Shri M. Ananthasayanam Ayyangar: I do not like to press my amendment. I do not want to divide the House on the matter. I consulted the Law Minister and I thought he consented.

Mr. Speaker: Apart from this, I was feeling another difficulty, and that was as to whether the Federal Court could be treated as a court superior to the Privy Council for the purpose of withdrawal of an appeal that has been filed. It would have been another matter if the amendment had sought to compel the litigant himself, but that is a question of phraseology of the section.

Has the honourable Member leave of the House to withdraw his amendment?

The amendment was, by leave of the Assembly, withdrawn.

Clauses 6 to 8 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Speaker: Motion moved:

"That the Bill, as amended, be passed."

(6)

* PROVINCIAL INSOLVENCY (AMENDMENT) BILL

The Honourable Dr. B.R. Ambedkar (Minister for Law): Sir, I move :

> "That the Bill further to amend the Provincial Insolvency Act, 1920, be continued."

Mr. Speaker : Motion moved :

> "That the Bill further to amend the Provincial Insolvency Act, 1920, be continued "

Shri Raj Krishna Bose (Orissa: General): I would like to know if this Bill also was referred to a Select Committee ?

Mr. Speaker: It was only introduced.

Shri K. Santhanam (Madras : General): It can be newly introduced. What is meant by 'continuation' ? Only if it has gone through the other stages of discussion or Select Committee there is a purpose in having a motion for its continuation. It can as well be newly introduced.

Mr. Speaker: I would invite the Honourable Member's attention to the provisions of sub-clause (2) of section 30 of the Government of India Act, 1935, as adapted :

> "A Bill which, immediately before the establishment of the Dominion, was pending at the Legislative Assembly of the Indian Legislature may, subject to any provision to the contrary which may be included in rules made by the Dominion Legislature under section 38 of this Act, be continued in the Dominion Legislature as if the proceedings take with reference to the Bill in the said Legislative Assembly had been taken in the Dominion Legislature."

So the time and expenditure incurred in the previous stages—publication etc.—are now dispensed with. That is the point in continuing the Bill.

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* C.A. (Leg.) D. Vol. I, 17th November 1947, pp. 40-41.

Shri M. S. Aney (Deccan and Madras States Group)**:** May I know, whether, in view of the wording of the particular clause, just read out it if necessary that a motion for continuation should be made ? The rule permits the Government to continue the Bill and take it through further stages if it wants to do so. Is a separate motion for its continuation therefore necessary at all ?

The Honourable Dr. B. R. Ambedkar: If the motion for continuation is not made the Bill lapses. That means all the stages will have to be begun again.

Mr. Naziruddin Ahmad (West Bengal: Muslim)**:** Sir, on this point of order the section which you were pleased to read says that a Bill which was pending in the Legislative Assembly 'may be continued'. It is thus discretionary on the part of this House to continue or not to continue it. Therefore, a decision of the House is necessary.

Mr. Speaker : That is exactly why the motion is brought. The question is :

> "That the Bill further to amend the Provincial Insolvency Act, 1920, be continued."

The motion was adopted.

***The Honourable Dr. B. R. Ambedkar** (Minister for Law): Mr. Speaker, Sir I move:

> "That the Bill further to amend the Provincial Insolvency Act, 1920, be referred to a Select Committee consisting of Shri Alladi Krishnaswami Ayyar; Dr. Bakshi Tek Chand, Shrimati G. Durgabai, Dr. P. S. Deshmukh, Shri M. Ananthasayanam Ayyangar, Pandit Thakur Das Bhargava, Mr. Naziruddin Ahmad, Shri Ram Sahai and the Mover, with instructions to report on or before the 16th March, 1948, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, in order to put the House in possession of the facts which have made it necessary for Government to introduce this measure I should like to make some preliminary

* C.A. (Leg.) D., Vol. II, 25th February 1948, pp. 1220-21

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observations with regard to certain decisions which have necessitated the making of this provision. I think it would be enough if I began from 1924 when a case went up to the Privy Council which is known as Sat Narain *versus* Behari Lal. The facts of the case briefly were that a Hindu father had been adjudged insolvent. Now under section 17 of the Presidency Towns Insolvency Act the property of the insolvent becomes vested in the official Assignee from the date of the adjudication. The property of the Hindu father consists of two things : (i) his share in the joint family property, and (ii) his power to dispose of his sons property in the joint family for his personal debts provided that the debts were not incurred for an immoral purpose. The question that arose in that case before the Privy Council was whether the power of the father to dispose of property of the son is property within the meaning of section 2(e) of the Presidency Towns Insolvency Act. On that issue the Privy Council gave its decision to the effect that the power of the Hindu father to dispose of the property of his son in the joint family was not 'property' within the meaning of section 2(e) on the ground that section 2(e) contemplated that power which was absolute over property and power which was not absolute was not property. According to the Privy Council the power of the father to dispose of the sons' property was not absolute because it was subject to the condition that the debts for which the property could be disposed of must not be immoral. On that ground they did not agree that the Official Assignee could become automatically vested under section 17 with the property belonging to the son. In that particular care that decision of the Privy Council did not matter very much to the creditors, for the simple reason that the Presidency Towns Insolvency Act contains a separate section—section 52—which permits the Official Assignee and the creditors to pursue such property or such capacity to obtain the property of another person. Therefore although in that particular case the property did not automatically vest in the Official Assignee, yet the Official Assignee was free to pursue the property of the son which was liable under the rule of pious obligation to pay the debts of the father by separate proceedings; and I believe he did that.

Now what happened was this. After that decision of the Privy Council the courts in India had occasions to interpret another Act which is called the Provincial Insolvency Act. As lawyer members of this House will remember, we have two separate statues dealing with insolvency,—one which deals with insolvency taking place within the towns, and the other with those in the mofussil. The Provincial Insolvency Act does not unfortunately contain a provision such as section 52 which finds a place in the Presidency Towns Insolvency Act. Consequently when a similar question arose before the courts, namely, whether the property which a Hindu father could claim under his right or power to sell his son's interest for the payment of his own debts could be interpreted as property and become vested in the Official Assignee, only that was property within the meaning of section 2(*e*). Unfortunately what has happened is that different courts have interpreted this section 2(*e*) of the Provincial Insolvency Act in different ways. It would be interesting to note that the Bombay High Court has held that though the property does not vest power is not property and therefore, it does vest; the Patna High Court also follows the Bombay High Court and so does the Allahabad and Nagpur High Courts. On the other hand when you come to Madras, one Bench of the Madras High Court has held that the property vests, while another Bench has held that it does not vest. And the same is the case in Calcutta where one Bench has held that the property does vest and another Bench has held that it does not vest.

Now I think this matter should be put right. The Madras High Court in one of its decisions clearly gave an indication to the Government of India that it was high time that legislation was brought in to set aside this discrepancy in the decisions of the different High Courts. Unfortunately during the war such a piece of legislation could not be brought in because there was not enough time. Therefore, it is to set right this discrepancy and division of opinion in the different High Courts that this measure has been brought in. All that this measure does is to reproduce bodily section 52 from the Presidency Towns Insolvency Act and makes it a part of the Provinvcial Towns Insolvency Act as section 50-A. There is nothing more that the Bill seeks to do.

As the House is aware, there is also a measure for a similar purpose standing in the name of Shrimati Durgabai. Her measure differs from the Government measure in two particular respects. She wants to give retrospective effect to the measure; the Government Bill does not propose to do so. The other provision contained in the Bill of Shrimati Durgabai is that the law not only should declare that the power which the Hindu father has over the son's interest in joint family property should be made clear as being available for distribution among the creditors, but that the power of disposal of the Manager also should be clearly stated. On that point all that I should like to say is this that I have not an empty mind but I have an open mind; and I am prepared to leave this matter to be decided by the Select Committee. Indeed one of the purposes or motives which have led me to move for reference to Select Committee was to enable the Select Committee to discuss these matters.

I do not think there is anything more I need say in elucidation of the provisions of this Bill. Sir, I move.

Mr. Speaker : Motion moved.

***Prof. N. G. Ranga :** There is the question of the manager. My Honourable friend wants this power to be extended to the Manager also. Evidently she has in mind some of the big zamindars who get their properties managed by managers.

The Honourable Dr. B. R. Ambedkar: They are called 'Karta'.

Prof. N. G. Ranga: It is bad enough to vest the power in the father but it is worse to vest it in the agent also.

The Honouraable Dr. B. R. Ambedkar: No, no. It is wrong.

Prof. N. G. Ranga: That is the answer given by lawyers. I am looking at it from the point of view of the debtors. They have as much right to be protected as the creditors. Creditors

* C.A. (Leg.) D., Vol. II, 25th February 1948, p. 1224.

are rich enough to engage these lawyers and get things done in their own way. I wish to suggest that the benefit of this Act should not be extended at all to these managers and it should not be given retrospective effect. This amendment may be passed but we should take care to see that the Law Minister comes forward at an early date with a suitable amendment in order to protect the interests of the sons also as against the vagaries of their own fathers.

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* **Shri Biswanath Das :** I have nothing to say about this particular Bill. In fact I have clearly stated that if the House comes to the conclusion that the Insolvency Act as it should stand then this Bill is a natural corollary to it. There is no denying that fact. Therefore, I have nothing more to say in the matter.

The Honourable Dr. B. R. Amebkar: Mr. Speaker, Sir, I will begin with my answer to the point made by my friend who spoke last. If I understood him correctly his points were two. One was that this was purely a provincial matter and ought therefore, to be left to the Provincial Legislatures.

Shri Biswanath Das : May I interrupt 'my honourable Friend, Sir ? I stated clearly that it is in the Concurrent List and that as such the Central Government should have left it to the Provincial Government and the Provincial Legislatures. I know it is in the Concurrent List."

The Honourable Dr. B. R. Ambedkar: I was just going to say that. The reason why it was put in the Concurrent list is undoubtedly—and I do not think there can be any other reason—that in a matter of this sort there ought to be uniformity if the Centre decided there should be uniformity. Therefore it is the right of the Central Legislature to legislate on the subject.

With regard to the question whether there should be an Insolvency Act or not I do not think that that can be point at issue on a matter of this sort. If my honourable Friend wants that there should be no insolvency legislation at all

* C.A. (Leg.) D., Vol. II, 25th February 1948, p. 1227-28.

the proper thing for him would be to bring in a resolution before the House and say that all laws relating to insolvency may be abolished.

Shri Biswanath Das: May I state that I never said that the Insolvency Law is not necessary. All that I said is this law is unnecessary, undesirable and breeds immorality into society.

The Honourable Dr. B. R. Ambedkar: Yes, therefore not necessary. However with regard to the point made by Dr. Punjabrao Deshmukh he is not here—I was somewhat surprised when he said that the Bill ought to be circulated. He has accepted a place on the Select Committee and I am sure about it that the two positions are quite inconsistent. I do not wish to say anything more about what he has said.

With regard to the point Shrimati Durgabai, namely that the Bill should have retrospective effect, I was bound to make a reference to it because I had induced her to withdraw her own Bill on a promise that when I bring my Bill I will say something about her Bill also. But as to the substance of it, as I say I feel a certain amount of doubt and difficulty, and I cannot very readily say in this House that I shall accept the proposition that the Bill should have retrospective effect. In fact one of the friends on the bench there who spoke said something which has a great deal of force and we must be very careful in giving retrospective effect to a measure of this sort.

Now coming to the point made by my friend Professor Ranga—he of course has the habit of entering into subjects which undoubtedly he himself will acknowledge are not his own—I am prepared to modify his argument and to give it some sort of a shape so that it might appear respectable. Now if I understand correctly, what he said was that there was a difference between the Presidency Towns Insolvency Act and the Provincial Insolvency Act, inasmuch as one contained a clause or a section like 6 and 52 while the other did not.

One could infer from what he said that the legislature in passing the law had different intensions from the very beginning that while they intended that since interest must pass to the Official Assignee under section 52 when the father

became insolvent, the legislature has no such intention when they passed the Provincial Insolvency Act. I think my friend Professor Ranga, not being a lawyer, has not understood the position correctly. If he refers to the definition of the term 'property' to which I made reference, he will see that in both the laws, provincial as well as Presidency Towns, the definition of 'property' is just the same. There is no difference at all. In both cases the phraseology as property or power. The difference is that under section 52, the official assignee can pursue property, but somehow there being an omission in the Provincial Insolvency Act, he has no right to pursue that property. Therefore, there is no doubt about it that this must have been a very inadvertent omission. If the legislature did not intend that the father's righ to dispose of the property of his son under the Provincial Insolvency Act should not accrue to the official assignee, the definition of the term 'property' in the Provincial Insolvency Act would be very different to what it is now, and therefore, I submit with all respect to my friend that his point really has no substance. Sir, I move.

Mr. Speaker: The question is :

> That the Bill further to amend the Provincial Insolvency Act, 1920, be referred to a Select Committee consisting of Shri Alladi Krishnaswami Ayyar, Dr. Bakshi Tek Chand, Shrimati G. Durgabai, Dr. P. S. Deshmukh, Shri M. Ananthasayanam Ayyangar, Pandit Thakur Das Bhargava, Mr. Naziruddin Ahmed, Shri Ram Sahai and the Mover, with instructions to report on or before the 16th March 1948, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

(7)

*RESOLUTION *RE.* EXTENSION OF PERIOD MENTIONED IN SECTIONS 2 AND 3 OF INDIA (CENTRAL GOVERNMENT AND LEGISLATURE) ACT, 1946 AS ADAPTED.

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir I move :

> "In persuance of the proviso to section 4 of the India (Central Government and Legislature) Act, 1946, as adapted by the India (Provisional Constitution) Order, 1947, this Assembly hereby approves the extension of the period mentioned in sections 2 and 3 of the said Act for a further period of twelve months commencing on the first day of April, 1948."

Now, Sir, it is not necessary for me to enter upon a very lengthy discussion in support of this resolution. It will suffice if I tell the House that the Central Legislature has passed various legislations imposing controls on commodities, requisitioning land, and so on, matters which are purely in the Provincial List. This power the Centre was able to exercise because of the proclamation of emergency which was issued by the Governor-General when the war broke out: and as the House knows, since the proclamation is issued by the Governor-General the Central Legislature gets the necessary power to make any order or to pass any law notwithstanding the fact that the subject falls in the Provincial Legislative List. It is also provided in the Government of India Act that this power of legislating upon provincial subjects would disappear six months after the Proclamation of emergency has been withdrawn. Now this power was exhausted in the year 1946. The Government of the day felt that although technically the emergency had disappeared, yet factually there did exist a certain urgency for the controls imposed by the Central Legislature to be continued. There was no

* C.A. (Leg.) D., Vol. II, 25th February 1948, pp. 1228-29.

method by which the Central after the emergency had ended, could get the power to keep the controls alive and therefore, the Central Legislature approached the British Parliament which was then the only authority which could confer such power on the Central Legislature to make due provision in this matter, and Parliament, as the House will remember in 1946 passed an Act called the India (Central Government and Legislature) Act, 1946. Section 2 of that Parliamentary statute permitted the Dominion Legislature make laws with regard to the matters which it had done during that emergency. But what the parliamentary Statute did was that it gave the power to the Central Legislature one year only in the first instance.

Under the provisions of that Act, the Central Legislature passed Acts called the Essential Supplies (Temporary Powers) Act, 1946 and the Requisitioned Land (Continuance of Powers) Act, 1947. That law was passed in 1946. Under the Parliamentary Statute it continued in existence for one year ; that is up to 1947.

Now, Section 4 of the Parliamentary Statute as I said provided that the Centre could exercise these powers for one year. It also provided that the power could be extended by another year if the Governor-General so certified. Consequently those two Acts to which I made reference were continued in existence by another year by the fiat of the Governor-General and we are now exercising those powers under that extension effected by the Governor-General. Now, under the extension effected by the Governor-General, these would continue up to 31st March 1948. The various Departments of the Government of India have been consulted in this matter in order to ascertain whether they could do without these controls after the 31st March 1948. I believe that almost all the Departments who are charged with the administrative control feel that they need at least one year more to continue these controls.

As I said, section 4 of the Parliamentary Statute gave the power for one year in the first instance, in the second instance one year on the fiat of the Governor-General, and thereafter

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by a Resolution of this House. The position, therefore, is this, that unless this House passes a Resolution extending that power, these powers will come to an end on the 31st March 1948. As the House will remember, I am only a Law Minister, I have no administrative responsibilities for the affairs of the Government of India, and I am therefore not in a position to answer any questions if they are asked as to whether in fact this extension is necessary, but I can tell the House that all the Departments are agreed that this extension is necessary, and I hope that the House will accept the view of the Departments of the Government of India and pass this Resolution. I have taken the precaution of calling my friend Dr. Syama Prasad Mookerjee to be by my side in order to reply any questions requiring detailed particulars with regard to the necessity of a provision of this sort. Sir I move.

Mr. Speaker: Resolution moved:

> "In pursuance of the proviso to section 4 of the India (Central Government and Legislature) Act, 1946, as adapted by the India (Provisional Constitution) Order, 1947, this Assembly hereby approves the extension of the period mentioned in sections 2 and 3 of the said Act for a further period of twelve months commencing on the first day of April, 1948."

SECTION II

3rd February 1950

TO

20th April 1950

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(8)

*INSOLVENCY LAW (AMENDMENT) BILL

The Minister of Law (Dr. Ambedkar): Sir, I move:

> "That the Bill further to amend the law relating to insolvency, be taken into consideration."

Sir, I should like to make a brief statement in order to enable the House to understand what exactly the Bill proposes to do. The law of Insolvency in India is contained in two different Acts: One is called the Provincial Insolvency Act and the other is called the Presidency-towns Insolvency Act. The present Bill contains, apart from the short title, six clauses which make amendments in the existing insolvency law. The amending clauses in this Bill fall into two categories: some make changes in the Presidency-towns Insolvency Act and the other propose changes in the Provincial Insolvency Act. Those that make changes in the Provincial Insolvency Act are four ; they range from clauses 3 to 6 and there are two which relate to the Presidency-towns Insolvency Act.

4-00 P.M.

Taking into consideration clause 2, all that clause 2 does is to remove a difficulty which has been felt for a long time. In the existing law as embodied in section 12 of the Presidency-towns Insolvency Act, it is said that an insolvency petition must be filed within three months from the occurrence of the event which is recognised as the justifiable ground for the presentation of the petition. It often happens that the period of three months comes to an end when the courts are closed. Under the law as it sands, the creditor loses the opportunity of presenting a petition merely because when the court re-opens, it is more than three months since the occurrence of the event. Courts, of course, have taken different

*Parliamentary Debates (Hereinafter called P.D.), Vol. 1, Part II, 3rd Feb. 1950, pp. 185-93.

views in this matter. The Madras and Calcutta High Courts have held that the period cannot be extended. The Allahabad High Court has held that the period can be extended. It is therefore felt that both for the purpose of removing what might be called and injustice, because, if the creditor is not able to present a petition within three months by reason of the fact that the court is closed, it is certainly not his fault, and secondly also in order to remove the conflict of decisions, it is proposed by this amendment that in any case where the period expires on a day when the court is closed, it shall be lawful to present a petition on the day on which the court reopens.

Coming to clause 3, it amends section 21 of the Presidency-towns Insolvency Act. Section 21 deals with annulment of adjudication. Under section 21, although the power of annulment is given to the court, the matter is left within the discretion of the court. The words are, "the court may". Then, this section 21 is contrary to section 35 of the Provincial Insolvency Act: because, under section 35 of the Provincial Insolvency Act, the power is obligatory and the wording is, "the court shall". Similarly, it is found that the existing section 21 is also to some extent inconsistent with its own section 13 sub-clause 4. Because, there it is stated that if the grounds exist for dismissing a petition, the court shall dismiss it. There is no reason why in the case of annulment the power should be discretionary and in the case of dismissal, the power should be compulsary. It is therefore felt that it would be desirable to bring the Presidency-towns Insolvency Act in conformity with the Provincial Insolvency law and use the word "shall" in the place of the word "may".

Then, I come to clause 4. Clause 4 makes an amendment to section 53 of the Presidency-towns Insolvency Act. Section 53 deals with the rights of an execution creditor against the property of an insolvent, who has obtained a decree against the debator before he was adjudged insolvent. The question has arisen as to what should be the terminus, so to say, of the rights of the executing creditor : should the terminus be the presentation and admission of the petition of insolvency or should the terminus be the adjudication. It is felt that the

proper terminus, the equitable terminus would be the admission of the petition ; because, admission of the petition means that there are other creditors who are also recognised as having a right to a share in the property of the debtor. It is therefore unreasonable to permit the prior executing debator to continue to appropriate the property until the date of adjudication. There may be a considerable time between the admission of the petition of insolvency and the actual adjudication by the court. Therefore, this section substitites the word "admission" for the word "adjudication".

Then, I come to clause 5. Clause 5 introduces a new section, section 101A in the Presidency-towns Insolvency Act. The necessity for the introduction of this new section is this. As I just now stated, there is a provision for the annulment of adjudication. Now, the effect of the annulment of adjudication is that proceedings which by reason of adjudication are terminated or cannot be initiated, become open. What the section permits is that on annulment other persons who have a right to sue or proceed against the debtor will be free to so. The law of limitation comes in their way. As lawyer Members of the House would know, one of the principles of the law of limitation is that once limitation begins, it does not stop. Nothing can prevent limitation being suspended. Therefore what happens is this .....

Shri Tyagi (Uttar Pradesh)**:** I could not follow.

Dr. Ambedkar: I cannot open a class now.

The point is that as the right to sue begins long before the annulment by the time the annulment order is passed, the suit or the proceeding is time-barred. The question is raised whether this is a right thing to do, because if the proceedings or the right to sue is suspended, it is suspended not because of any fault on the part of the person who has this right to sue, but because the law says that when an adjudication is made all proceedings shall be suspended. Consequently, in order to remove this iniquity, what is proposed is this : That by this new section 101A, it will be open for the Court and for the party to have the time taken between adjudication and annulment excluded from the computation of the period

of the limitation laid down by the law, so that the right to sue may practically be deemed to have occurred when the annulment has taken place. Anyhow the period will not serve as an additional bar to any delay or lapses that might have occurred on the part of the person who has the right to sue.

Now, clauses 6 is merely clause 2 of the Bill. All that it does is this, that it introduces the same proviso in the Provincial Insolvency Act, so that even under the Provincial Insolvency Act, if the period of three months for filling the petition falls on the day on which the Court is closed, it would be open for a party to file the petition on the day when the Court re-opens.

Then, the last clause also amends the Provincial Insolvency Act. Under the present law, it is provided that along with the order of the adjudication, the Court also fixes the date for the discharge of the petitioner and he is required to appear on the day on which the date is fixed for his discharge. Now, the words are "He shall appear and the court, if he does not appear, shall" take a certain action, as stated therein. The section so far as the wording is concerned, is mandatory, but curiously enough the Courts have interpreted 'shall' as 'may' making it discretionary. It is felt that probably the Courts have really carried out the intention of the Legislature in treating 'shall' as 'may'. Similarly, the Presidency Towns Insolvency Act has also the word 'may' and not 'shall'. Therefore, this amendments proposes to accept the decision or the interpretation of the Court and substitute 'may' of 'shall'. These are all the clauses in the Bill.

I might say that these amendments are very much overdue. These amendments were suggested a long time ago, in fact before the War, but it was not possible to undertake any legislation while the war was there. Consequently, there has been this delay. I might tell the House that these amendments have been approved by the Provincial Governments and the Provincial Governments, have also stated that although the subject of insolvency falls in the Concurrent list, it is desirable these amendments should be made by a law made by Parliament, so that they may be uniform throughout the

country. That is the reason why this Bill has been brought forward.

Mr. Chairman : Motion moved :

"That the Bill further to amend the law relating to insolvency, be taken into consideration."

***Dr. Ambedkar:** I am glad that my friend Shri Biswanath Das raised the points to which he made reference in the course of his speech. I should like to say that before bringing forth this Bill I myself was of the opinion that the time had come when these two enactments should be amalgamated into a single Act. The distinction which has been existing in our insolvency law between the Presidency towns and the other areas seems to me no longer justifiable. But I found that the amalgamation of the two Acts into one single enactment would take time and would also require special agency to be employed in the Law Department for the purpose of collating the sections. However, owing the financial stringency it was not possible for me to obtain the staff that was necessary to undertake this task in the expediency with which we intended to proceed. That was the reason why I kept back my original project of bringing forth a single enactment. I have, however, not abandoned that project and as soon a circumstances propitious to that purpose are available. I will certainly place a single, enactment before Parliament.

With regard to the other question that he has raised, whether the jurisdiction in insolvency should be the District Court or Courts of small jurisdiction, as well as the other sections to which he made reference which according to him, are sections which are abused by the insolvent, I don't think they are matters which can be debated on this particular occasion. The law of insolvency, as everyone knows, is a sort of legal relief against misfortune or mishap. It is quite possible that persons who ought not to get the benefit of the legal relief do get it, but that is a complaint which may not be made merely against the insolvency law—it can be made against

* P. D., Vol. 1, Part II, 3rd February 1950, pp. 191-93.

almost every law. It is never possible for the Legislature to enact a measure which will be so tight as to be completely fool-proof and knave-proof. There will always be available many crooks who will be able to find out ways and means of getting round the act and abusing it. However, there is not the slightest doubt about it that the intention of my friend Mr. Das, that we ought not to allow any loophole in a law of this kind which would enable undeserving persons to get the relief which the law intends to give only to the really unfortunate, is a praise worthy object and no doubt in future legislation it will be borne in mind.

With regard to the points made by my friend Mr. Karunakara Menon, I think he has not followed what I stated in my opening remarks. He has forgotten that what we really are trying to do is to bring either the Provincial Law in conformity with the Presidency Law or to bring the Presidency law in conformity with the Provincial Law. We are not making any particular innovation which is not to be found in either of the two Acts. If he does not like the word "shall" which is introduced in some sections of the Provincial Act and wants "may", then he shall also have to give his justification as to why the word "shall" should continue in the Provincial legislation. All that I have done is to bring the two in conformity so that there may be no obvious inconsistency in legislation in matters of this sort. If, as I have said, he has still any points of contention he can raise them when a new Bill consolidating the whole is brought before Legislature. For the moment these are only pressing amendments which both the Provincial Governments as well as, if I may say so, all the High Courts have accepted.

Mr. Chairman: The question is:

"That the Bill further to amend the law relating to insolvency, be taken into consideration."

The motion was adopted.

Mr. Chairman: The question is :

"That clauses 2 to 7 stand part of the Bill."

The motion was adopted.

Clauses 2 to 7 were added to the Bill.

Dr. Ambedkar: I beg to move:

"That in clause 1, for the figures '1949' the figures '1950' be substituted."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Mr. Chairman: The question is :

"That the Preamable stand part of the Bill"

The motion was negatived.

Dr. Ambedkar: I beg to move:

"That for the existing Enacting Formula, the following be substituted :—

'Be it enacted by Parliament as follows:—'."

Mr. Chairman: The question is:

"That the Enacting Formula as amended stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill.

Dr. Ambedkar: I beg to move :

"That the Bill, as amended, he passed."

The motion was adopted.

(9)

*CRIMINAL LAW AMENDMENT BILL

The Minister of Law (Dr. Ambedkar): I beg to move for leave to introduce a Bill further to amend the Criminal Law Amendment Ordinance, 1944.

Mr. Deputy Speaker: The question is :

"That leave be granted to introduce a Bill further to amend the Criminal Law Amendment Ordinance, 1944."

The motion was adopted.

Dr. Ambedkar: I introduce the Bill.

**CRIMINAL LAW AMENDMENT BILL

The Minister of Law (Dr. Ambedkar): I beg to move :

"That the Bill further to amend the Criminal Law Amendment Ordinance, 1944, be taken into consideration."

[SHRIMATI DURGABAI *in the Chair*.]

The object of this measure is to replace Ordinance No. III of 1950, which is called the Criminal Law Amendment Ordinance, 1950. This Ordinance No. III of 1950 was passed in order to add a new section 9A to the Original Ordinance XXXVIII of 1944. The history of this Ordinance No. XXXVIII of 1944 may be helpful to hon. Members in order to understand why exactly the Ordinance III of 1950 was enacted.

During the war the Government of India as well as the Government of the various Provinces had entrusted public property and public funds into the hands of certain persons such as contractors and officers of Government. It was found that some of these persons who were entrusted with Government property and funds had committed certain defalcations and consequently in order to try the delinquents

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* P. D. Vol. 2, Part II, 14th February 1950, p. 538.

***Ibid,* 28th February 1950, pp. 983-84.

Ordinance XXXVIII of 1944 was passed, which constituted special tribunals for trying these offenders. These tribunals were spread all over India in the different Provinces of United India before the Partition. These tribunals were given power to freeze the property of the delinquent by passing attachment orders and the courts so empowered were courts within whose jurisdiction the delinquents stayed or carried on business.

After the Partition a peculiar situation arose, namely that the tribunals which passed the orders of attachment against the properties of the delinquents became part of Pakistan, whereas the property of the delinquents remained in India proper. This difficulty has to a large extent held up the work of carrying on these trials. It is therefore now proposed that the power of passing further orders with respect to property which has already been attached by courts (which unfortunately happen to be now in Pakistan) should be transferred to courts operating within the Indian Republic. Consequently it is thought desirable to add this section 9A which permits the courts within whose jurisdiction the offences are now being tried to exercise the power of passing orders regarding the property which is held by these deliquents.

The Ordinance was promulgated because the matter was regarded as very urgent. As the power of continuing the Ordinance is of a limited duration it is necessary to revise the Ordinance before the expiry of time by this measure.

Mr. Chairman: Motion moved :

"That the Bill further to amend the Criminal Law Amendment Ordinance, 1944, be taken into consideration."

Shri Himatsingka (West Bengal)**:** On a point of information, may I know if the property that has been attached by an order of the court is now in Paksitan. If the property continues there.....

Dr. Ambedkar: The property is here.

Mr. Chairman: The question is:

"That the Bill further to amend the Criminal Law Amendment Ordinance, 1944, be taken into consideration."

Mr. Chairman: The question is:

Mr. Chairman: There are no amendments. I will put the clauses.

The question is:

"That clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 *was added to the Bill.*

The Title and the Enacting Formula were added to the Bill.

Dr. Ambedkar: I beg to move:

"That the Bill be passed."

Mr. Chairman: The question is:

"That the Bill be passed.".

The motion was adopted.

(10)

MOTION FOR ADJOURNMENT

ESCAPE OF MIR LAIK ALI OF HYDERABAD FROM CUSTODY.

*** Mr. Speaker :** May I ask who is the controlling authority or the directing authority, so far as the prosecution of Mir Laik Ali and others is concerned ?

Sardar Patel: The final prosecution sanction is from the Nizam.

The Minister of Law (Dr. Ambedkar): I do not know but the first impression which I have of this matter is this that Hyderabad is like any other State. There is no distinction between Hyderabad State under the Constitution in its relation to the Centre and, say, for instance Bombay in its relation to the Centre, which means that for subject matters set out in List II the responsibility is entirely of the State, while the responsibility, so far as subjects in List I are concerned, belong to the Centre. The same rule would apply to Hyderabad. That is to say that so far as the matter relating to the custody of Laik Ali is concerned, it is a matter of law and order which is undoubtedly under the Constitution a matter for local administration. On that footing, I submit that this is not a matter which constitutionally could be held to be under the control of the Central Government, but I should like to add one more remark, *viz.* that in view of the fact that there is no local legislature to which the local Ministry could be held to be responsible, it is possible—I speak subject to correction—that whatever action is being taken by the local administration is perhaps done under the power which the Constitution vests in the Central Government of direction and control over certain States. I am not yet aware as to what

* P.D., Vol. 2, Part II, 7th March 1950, pp. 1179-80.

the position under that part of the Constitution is. But so far as the Constitution is concerned and the relation of Hyderabad State to the Centre is concerned, this, I submit, would be a matter falling within law and order which is absolutely a States subject.

*** The Minister of Law (Dr. Ambedkar):** Sir, I am grateful to you for the second opportunity which you have given to me to clarify and to explain further the points that were made by me as well as by other Members of this House in the course of the debate that took place yesterday on the adjournment motion. Since you have been good enough to point out to me, before I commenced my remarks, the difficulties which you feel, I will follow the line of points which you have to set out: I will first of all try and explain the Constitutional position of the States on the one hand and the Centre on the other and to what extent the States are free and independent of the Centre, to what extent they are under the subservience or surveillance or superintendence or control of the Centre.

The first thing I would like to draw the attention of the House to is this that there is a certain amount of parallelism in the constitutional frame-up of the Central Government and of the States. For instance, with regard to the Central Government you have article 53 which says that the executive power of the Union shall be vested in the President. Corresponding to that article, you have article 154 which states that the executive power in the States shall be vested in the Governor or the *Rajpramukh,* as the case may be. Coming to the question of actual administration, article 74 of the Constitution provides that there shall be a Council of Minister to aid and advise the President in the matter of the exercise of the executive authority which is vested in him by the Constitution. Analogous to that article, we have also

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* P.D., Vol. 2, Part II, 8th March 1950, pp. 1236-44.

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article 163 which relates to the States. It also is worded in the same language as article 74. It says that there shall also be a Council of Ministers to aid and advise the Governor in the carrying out of the administration which is vested in the Governor, or the *Rajpramukh*. Then we have another article, 79 which vests the legislative power of the Centre in Parliament consisting of two Houses. Analogous to that, we have article 168 constituting a legislature for the States in almost the same terms except for the fact that in some cases there are two Houses and in other cases there is one House. There is a further provision, namely, that where at the commencement of the Constitution there does not exist any popularly constituted legislature in any States, then the *Rajpramukh* of that State shall be deemd to be legally the legislature for that State. It will therefore be seen that the paraphernalia, so to say, of administration in accordance with the Constitution is parallel in both cases. Supplementing this by what I stated yesterday that the legislative authority of Parliament is primarily confined to subjects enumerated in List I, and the legislative authority of the States is confined to subjects mentioned in List II, with the further proposition—to which there can be no objection raised because it is a well-established judicial proposition—that the legislative authority is co-extensive with executive authority, it follows that so far as the States are concerned, primarily and fundamentally they occupy an independent position in the Constitution. That being so, it is quite clear that by the rule of comity and also by the rule governing responsibility, it would not be open to this House to discuss any matter, either in the form of legislation or in the form of administrative action, which has been taken by the State which lies within the ambit of subjects mentioned in List II. As I stated yesterday, so far as I can understand the subject-matter of the Adjournment Motion relates primarily to law and order. Law and order is a subject which is included in List II and therefore, it would not be open to this House to discuss such a question when the Legislature of the State is competent by the rule of the Constittuion to deal with it. That I think is a general proposition which must be accepted.

I should like, if hon. Members want to see the thing in a clear light to ask them to compare the provisions of article 239 with the provisions of the article to which I have referred in regard to the States. Article 239 refers to States in Part C ; they are what are called "Centrally Administered Areas". The language of article 239 is absolutely different from the language of article 154. The language of article 154 is that the executive power, which also includes administration, vests in the Governor, while article 239 begins by saying that the States in Part C shall be administered by the President, which means "President on the advice of his Council of Ministers", which in turn means that the responsibility for any matter of administration so far as States in Part C are concerned, directly falls upon Parliament and upon the Central Government. It is therefore open for any Member to discuss any matter relating to States in Part C on the floor of the House, which would not be the case so far as the other States are concerned.

With regard to the States, I should also like to point out that although our Constitution divides the States in Part A and Part B for certain purposes, that is for the purposes to which I have referred, namely the frame of their constitution, the vesting of the executive authority, the authority to make law, and all that, they are on a parallel footing and there is complete parity. True enough that the Consitution contains an article, article 238, which applies with certain modifications, the articles which apply to States in Part A to States in Part B. But anyone who has the curiosity to examine the provisions of article 238 will find that the changes made in the articles which are applicable to States in Part A in their application to States in Part B are of a very minor character—substituting "Governor" for "Rajpramukh" etc. a sort of terminological difference. Beyond that there is no difference at all. Therefore, from that point of view, just as it would not be competent for this House to discuss any matter falling within the jurisdiction of States in Part A, it would also not fall within the jurisdiction of the House to discuss any matter relating to Part B States because both of them, as I said, are placed by the Constitution on the same footing.

At this stage I would like to endorse what the Hon. the Home Minister has said just now. The mere fact that the Nizam is a *Rajpramukh,* the mere fact that there is no legislature, the mere fact that certain officers have been lent by the Home Ministry to the Nizam for carrying on the administration of the State, would not alter the character of the Hyderabad State being exactly on the same footing as other States in Part B, which is the same thing as being equivalent to States in Part A. I shall have to say something at a later stage by way of a small qualification, but I should like to say that the mere fact that the officers have been lent would not alter the status and the character or position of the Hyderabad State within the field of the Constitution.

Now, this is the general proposition, namely that the States in Part A as well as the States in Part B are free and independent of the Centre in the matter of executive authority, in the matter of legislative authority and in the mode and manner of administering the legislative and executive authority that they possess. This is the general proposition. The question that we have now to consider is the provision contained in article 371, and the question is: does the provision of this article make any change in the position of States in Part B ? Because, as everyone knows, article 371 applies only to States in Part B and does not apply to States in Part A. In the course of the debate yesterday, I found that one hon. Member said that the Central Government possess no authority to issue any directions to the States except under emergency provisions, which gave me the impression that in his view article 371 could not be the foundation for the Ministry of States or the Government of India to issue directions to States in Part B. With all respect, I submit that I cannot accept that position. To explain the matter fully, the Centre has the power to issue 352 directions under the Constitution to the various States, under *four* different articles. The first is article which is what is called an emergency article arising out of war or internal aggression and things of that sort. The second article which permits the Centre to issue directions to the States is article 360 which deals with financial emergency; when the President is

satisfied that the credit of the State is in jeopardy he can declare a state of financial emergency and under that article he can issue certain directions to the States. The third article is article 356 which is called a breakdown article. When the President finds that the Constitution in any particular State is not being carried on in accordance with the provisions contained therein, then also, the President issues certain directions to see that the Constitution is carried on in accordance with its provisions.

Then comes the last Article, Article 371, which is the supervisory Article. It has to be understood that Articles 352, 360 and 356 are, in a general sense, emergency articles, that is to say, they can be invoked for the purpose of giving directions to the States only when certain circumstances arise and the President is satisfied that those circumstances have arisen.

Pandit Kunzru (Uttar Pradesh)**:** May I ask the Hon. Minister of Law whether he has made this observations with reference to Article 371 also?

Dr. Ambedkar: No, I am taking it separately. I am trying to point out the distinction between the provisions contained in Article 371 on the one hand and Articles 352, 360 and 356 on the other. As I said, these latter Articles are emergency Articles. They are not Articles which deal with normal administration in normal times. Circumstances must justify their invocation. The second thing with regard to them is that they apply to States in Part B to the same extent, in the same degree and in the same manner as they apply States in Part A, provided of course, that the emergency has arisen.

Article 371 stands on a different footing. It does not require an emergency. It can be used in normal times. That is one feature of distinction. The other feature of distinction is that it applies only to States in Part B. It does not apply to States in Part A. Therfore, in my judgment it is not correct to say that the Central Government must use either Article 352 which is an emergency Article, or Article 360, or Article 356, to issue directions to States in Part B. (*Pandit Kunzru :* Hear, hear). Independently of these three Articles, the Centre has the power to issue directions to States in Part B under Article 371.

Pandit Balkrishna Sharma (Uttar Pradesh)**:** And it is only transitional.

Dr. Ambedkar: That is a different matter. The transition has not ended. The Article is in operation and we must therefore take it as it is. Therefore, in my judgment, Article 371 does give the power to the Centre of issuing directions to States in Part B even though there is no emergency. It is an Article which is to be used in normal times.

Now, Sir, the question you have been good enough to raise is one which if you will permit me, I would like to take up towards the close. In so far as Article 371 is concerned and in so far as a direction has been issued—I am using my language very deliberately—in so far as Article 371 is concerned and in so far as it has been used for the purpose of issuing a direction to the State Government, it seems to me that there is a possible basis for discussion of that matter by this House. That is my view of the matter.

Now, I would like to take up .....

Mr. Speaker: May I have clarification on one point at this stage? Will the failure to give direction .....

Dr. Ambedkar: I am just coming to that. That is the very point I want to deal with, because that is a very important one, and we must be very clear about it.

Pandit Balkrishna Sharma: May I know what direction has been issued under Article 371 ?

Dr. Ambedkar: I am coming to that. I am stating the position generally. My. Hon. colleague, the Home Minister will say what direction he has issued. I am not in charge of administration, and I have merely been asked to explain the legal position.

Now, Sir, I was trying to find out whether there was any precedent in the past procedure of our Legislature which could help us to come to some definite conclusion on the issue before the House. I have examined the provisions of the Government of India Act, 1919, in order to find out whether there was any ruling which could furnish to us some kind of a precedent.

As the House will remember, the scheme of the Government of India Act, 1919, was to divide, so far as the Provinces were concerned, the field of administration into two parts: the transferred part and the reserved part. The House will also remember that under the old Government of India Act the superintendence and control of the civil and military Government of India was vested in the Secretary of State in Council. It was also provided that the Governor-General in Council as well as the Governors would carry out their respective duties of administering this country, subject to the power of superintendence and control of the Secretary of State. When the field of administration was demarcated into the reserve and transferred sides in 1919, a rule was made that those subjects which were classified as 'transferred subjects' were not to be under the supervisory control either of the Secretary of State or of the Governor-General or of the Governor, because they were administered by Ministers who were responsible to the Legislature. Now, the question that arose under the provisions of the 1919 Act was this : whether it was possible for the Central Legislature to ask a question with regard to the administration in the Provinces. The researches that I have made—and I am grateful to the Secretariat of the Speaker for the help they have rendered me in this connection—show that the then President of the Assembly took the view that in so far as the question related to transferred subjects, he would not allow them, but if they referred to 'reserved subjects', he would allow them subjects to the sanction of the Governor-General. You will recollect that such sanction was necessary, because the Assembly worked under both Rules and Standing Orders. The Rules were made by the Governor-General, which sometimes restricted the scope of Standing Orders. Therefore, his permission was necessary. But the principle was conceded that in so far as the administration continued to be under the superintendence, direction and control of the Governors, of the Governor-General and ultimately of the Secretary of State, it was possible for a Member of the Central Legislature to ask a question relating to those subjects and the President, subject to other conditions being fulfilled, would admit that

question. That is one precedent. Of course, it must not be extended to a field which it did not cover. As I said, it extended only to questions and not to other matters.

Now, I come to the Government of India Act, 1935. Probably, some Members of the House will remember that as soon as the Government of India Act, 1935, was passed, certain members of the House of Commons were considerably agitated as to their rights to ask questions to the Secretary of State in Parliament with regard to the administration of India and a question was put to the then Prime Minister, Mr. Chamberlain, in the year 1937. Mr. Chamberlain gave the reply to the effect that since the administration of the country was transferred to agencies in India and to that extent the Secretary of State ceased to possess to have any kind of responsibility for the actual administration, it would not be possible or permissible for Members of Parliament to put any questions to the Secretary of State on those matters. That matter was taken up in the Assembly here immediately after the interpellations had taken place in the House of Commons and a question was put by our old friend Mr. Pande, who was a well-known Member of this Assembly, to the then Law Member, Sir Nripendra Sarcar. I propose to read the answer which Sir Nripendra Sarcar gave, because it is a very illuminating reply and, in my judgment, supports the conclusion to which I have come and to which I have given expression just now

The answer of Sir Nripendra Sarcar was this :

> "(a) The general position is that where the executive and legislative authority are vested under the Act in the provinces, it would not be appropriate for the Central Legislature to discuss those matters. There are likely, however, to be matters in which the Central Legislature may be properly interested, (e.g., a direction under sub-section *(1)* and *(2)* of section 126 of the Government of India Act) and thus the prevention of any encroachment on the provincial sphere may well be left to be regulated by the powers vested in the Hon. the President under Rule 7 of the Indian Legislative Rules in regard to questions and in the Governor-General under Rule 22 in regard to the Resolutions."

My submission is this : that the provisions contained in Article 371 are more or less analogous. I do not say they

are exactly alike to the provisions contained in Section 126 of the Government of India Act. The Act of 1935 vested power in the Governor-General. It says :

> "The executive authority of the Federation shall extend to the giving of such directions to a province as may appear to the Federal Government to be necessary for that purpose".

Further it says ;

> "The executive authority of the Federation shall also extend to the giving of directions to a province as to the carrying into execution thereunder any act of the Federal Legislature, etc."

As I said, Section 126 deals with power to give directions to the provinces. Similarly, Article 371 also gives power to Central Government to give directions. As interpreted by my predecessor Sir Nripendra Sarcar, on the basis of the discussions and clarifications that took place previously in the House of Commons, he came to the conclusion that a matter such as the one lying within the purview of section 126 could be discussed in this House. My submission, therefore, is that that opinion of his is a sound one.

Shri T. T. Krishnamachari (Madras)**:** May I Sir, suggest to the Hon. the Law Minister to give us his opinion on Section 126 of the Government of India Act *vis-a-vis* Articles 257(1) and 73(1) proviso of the Constitution.

Dr. Ambedkar: I have not considered those sections. If at any other time the point is raised I would be prepared to clarify it. For the time being, it does not seem relevant to the subject we are discussing.

Pandit Kunzru: Will the Hon. Law Minister read out Article 371 and tell us whether under it orders can be issued by the Government of India to Governments of the States only in regard to Central (Federal) subjects, or also in regard to subjects included in the State list?

Dr. Ambedkar: It is quite clear that Article 371 contemplates issue of directions relating to matters lying within the purview of the State Legislature and the State Executive. It is really in relation to the administration of the States that Article 371 has been drafted. In my mind there is no doubt on the point at all. Now, Sir .....

Pandit Kunzru: May I ask the Hon. the Law Minister how he then regards Article 371 as analogous to Section 126 of the Government of India Act which restricted the executive authority of the Government of India to matters included in the Federal list ?

Dr. Ambedkar: I do not think my hon. Friend has understood me. The point is this. Let me put it in a somewhat pointed manner. When one Government has the right to give directions to another, could such directions be the subject matter of discussion in an Assembly to which that particular Government is responsible ? That is the question. I am not using Section 126 for the larger issue. I am using it for the limited issue, namely, that wherever there is power to give direction, that power implies responsibility and wherever there is responsibility there must be discussion. That is my point.

Now, Sir, you were good enough to ask me to explain what "general control" meant. Now, it seems to me that the words "general control" are used in order to include every matter of administration arising within that particular State. The direction need not be confined to any particular matter. Today the direction may be given with regard to the Police administration; tommorrow it may be given with regard to revenue administration; at a later stage it might be found necessary to issue a similar direction with regard to finance. "General control" means control extending over the whole field of administration. That is how I use the word general control.

It would not be permissible for me, I suppose, to give the history as to how this Article came to be drafted. I would not ask your permission, nor if you give it would I use it. But I have a very clear picture in my mind as to what this Article was intended to cover. This Article does not take away the powers given to the State under the various Articles to which I have referred, namely, 154, 162, 163 and 168, the power of executive authority, of administration and of legislation. But in the interest of good Government it superimposed the authority of a direction given by the Centre in order that the levels of administration may not fall down. That. Sir, is the implication of Article 371.

Dr. R. U. Singh (Uttar Pradesh)**:** May I ask a question, Sir? Is it contended that when control has been exercised, or is being exercised, and directions have been given, Parliament is not competent to discuss the matter ?

Mr. Speaker: He is advocating just the reverse.

Dr. Ambedkar : Sir, you referred to the question whether there is a Legislature or whether there is no Legislature is a matter which can be taken into consideration in coming to a conclusion. Theoretically, of course, no such consideration can be paid to the existence or non-existence of a Legislature, because the Constitution itself expressly says in Article 385 that where there is no Legislature, the Rajpramukh shall be deemed to be the Legislature. But it may say so, this matter whether there is a local Legislature where the particular point could be agitated or not, was taken into consideration by your predecessor in dealing with questions during the last war. As you remember, Sir, in 1939 when the war was declared, the Congress party which was the governing party in the various provinces resigned on account of certain differences between the party and the Government, and consequently, section 93 was applied. Here certain Members asked certain questions with regard to the administration in the Provinces as conducted by the Governor and his Advisers. It was then held that it was right and permissible for Members of the Central Assembly to ask questions for information with regard to the administration in the Provinces where there was no Legislature functioning. I remember having read the proceedings, and much emphasis was laid on the fact—not on the legal fact, but as a *de facto* position—that since the people have no opportunity to ventilate there grivances before a properly constituted Legislative, that in itself was an additional ground for permitting questions being asked in the Central Legislature about provincial administrations. So technically it would not be right to take this into consideration because the Rajpramukh is the Legislature. But I say, technicalities in a matter of this sort, should not be allowed to come in, much as some hon. Members might like to.

Mr. Speaker: At this point, may I ask whether he would place question for information on the same footing as a discussion ?

Dr. Ambedkar: As I said, the precedents which I have collected refer only to questions. According to Sir N. N. Sarcar which is the authority I have relied on, the matter, can be discussed, the propriety or otherwise of a direction can be discussed. It seems to me that as he has used the word "discussion" it would be large enough to include even an adjournment motion.

Now, Sir, I come to the other question which you have been good enough to put to me, "What is the scope of article 371 ?" Now, Sir, reading article 371, I should like to point out one important matter and it is this, that article does not cast upon the Government of India the duty of having general control. It is not an article which imposes a duty. It is an article which permits the Government of India to give directions. Now, Sir, this distinction which I am making is a very important distinction and it must be very clearly borne in mind.

Shri Kamath (Madhya Pradesh)**:** May I point out that the language used in Article 371 is—

> "..... the Government of every State.....shall be under the general control ..... etc, etc."

Dr. Ambedkar: 'Shall be' means what ? It is the duty of the State to be under. There is no duty on the Central Government.

Shri Kamath: There is mutuality.

Dr. Ambedkar: No, no mutuality at all.

Now, the position is this. That distinction is important from this point of view. When there is the duty cast to do a certain thing, then a motion of censure could be passed either upon the mis-performance of the duty or upon the failure to perform the duty. But if it is agreed that this article merely permits the Government of India, in the interest of better administration, to issue on certain occasions or in certain situations, certain directions telling the Provincial Government that they may do this or they may not do that, then I am

sure about it that the only question that can arise for consideration is, what direction was given, whether the direction was proper, and whether any steps were taken to see that the directions were carried out. If the Central Government in its wisdom, in its discretion, felt that notwithstanding the fact that there were elements in the situation which called for the issue of an order, did not think it necessary, proper or wise to give a direction, then the Central Government could not be called to account for failure to do so. That, I submit, is a distinction which must be borne in mind.

Pandit Kunzru: How does my friend come to that conclusion ?

Dr. Ambedkar: That is how I read it. My friend, as I said, may read it differently ; I know, and people who are, if I may say so, more enthusiastic than cautious may probably like to give a more stretched meaning to this article. But looking at it from this point of view, from the fact that the Constitution has vested the States with the right to administer their affairs, and has only given what may be called in the case of States in Part B certain residuary powers to give directions on certain matters and on certain occasions, this power which may be exercised, as I said, under article 371 must be of a very limited character. My submission, therefore, is that although as I read article 371, I cannot help accepting the conclusion that it does admit the possibility of discussing a matter relating to the administration of States in Part B, it must be of a very narrow character. That is all I have to say.

The Minister of Transport and Railways (Shri Gopalaswami): I only want to refer to one particular point. If you are going to give a general ruling on the applicability of article 371, its interpretation and the admissibility of an adjournment motion, based upon that article, I should like you, Sir, to defer your ruling till other Members like me have put certain points before you. But if you are going to reject this motion on the short ground on which the Hon. Law Minister ended his speech, I need not waste the time of the House by puting these points before you.

Mr. Speaker: I will tell him what is passing in my mind. I do not propose to hurry up any decision. I have heard the Hon. Law Minister, I have heard his point of view, and if other Members are anxious to address on the purely constitutional aspect of it, without going into the merits, I am prepared to hear them; but that discussion should be of a very short duration. I have not yet made up my mind as to .....

Dr. Tek Chand (Punjab)**:** Shall we do it today or on some other day? This question raises very important .....

Mr. Speaker: I have not finished. The hon. Member will please let me finish first, and then he will see that I entirely agree with him, and that I am going to do what he wishes to be done. The point I was coming to is this. I am restricting myself only to the facts of the present case, and I want to know whether I have understood the Hon. Law Minister correctly. He has given his views on the wider issues about the scope and there might be, as he says, occasions when the Centre may exercise this power; but am I clear in understanding him this way that, supposing no directions are given by the Centre or no control is exercised, then the present motion would not be in order. Is that his conclusion?

Dr. Ambedkar: That is my view.

Mr. Speaker: The other position I want to get clarified was about the words 'general control'. He stated that the word 'general' means the control extending to the whole administration.

Dr. Ambedkar: And not detailed control, not over day to day administration.

Mr. Speaker: That is what I wanted to be clear about. Subject to the general policy laid down by the Centre, the States will have perfect autonomy.

Dr. Ambedkar: But with the further fact that if the Government of India is satisfied that the directions are not carried out, then the other provisions will come into operation.

Mr. Speaker: That is a different matter. But no question for a discussion can arise in this House unless the power in Article 371 is exercised by the Centre.

(11)

PARLIAMENT (PREVENTION OF DISQUALIFICATION) BILL

***The Minister of Law (Dr. Ambedkar):** I beg to move :

> "That the Bill to make provision in regard to certain offices of profit under article 102 of the Constitution, be taken into consideration".

I do not think that it is necessary for me to make any long statement to enable the hon. Members to understand the provisions of this Bill. It is a very short one. It has only one clause but just to put hon. Members in a position to know exactly what is being done, I would like to say that article 102 of the Constitution provides that certain persons shall be disqualified from being Members of Parliament. One of the disqualifications relates to holding of an office of profit under Government. So far as Ministers are concerned, they are exempted from the operation of article 102 by clause (2) of that article. We have however in the Government of India not only Ministers but also other categories of Ministers *viz.* Deputy Ministers and Ministers of State. These offices were created before the Constitution came into operation. Their occupants were entitled to hold office at the same time as Members of Parliament because during the period which intervened between the 15th August 1947 and the 26th January 1950 the Government of India Act 1935, as adapted, did not contain the provision to which I have made reference *viz.,* holding of an office of profit as a disqualification. The situation has, of course, now altered by reason of the provision contained in Article 102 so that from the 26th January 1950 Ministers of States and Deputy Ministers would have become disqualified from sitting in Parliament. In order to get over the difficulty the Government issued an Ordinance permitting them to sit in Parliament and to remove the disqualification they would have otherwise incurred. As hon. Members know, under the new Constitution, the life of an Ordinance is a very

* P. D., Vol. 2, Part II, 9th March 1950, p. 1330.

short one *viz.,* six weeks from the re-assembly of Parliament. In this particular case Parliament assembled on the 28th January so that the Ordinance would expire on the 12th of this month. It is necessary that this Bill should be got through before the Ordinance ceases to have legal operation. The Bill seeks to include what I may say, clause (a) of Section 2 of the Ordinance, which referred to Deputy Ministers and Ministers of State. The present Bill does not propose to give effect to clause (b) of section 2 of the original Ordinance which made provision for part-time offices. Instead of that, the Bill seeks to include two more offices *viz.,* Parliamentary Secretaries and Parliamentary Under-Secretaries. It is felt that although these offices are not in existence now and have not been created, it is quite possible that the Government of India may find it necessary to create them. It was therefore felt that it would be better to enlarge the scope of the Bill in order to include these offices as well. I do not think that any more argument is necessary to support the Bill and I hope the House will accept it.

Mr. Deputy Speaker: Motion moved.

***Dr. Ambedkar:** I would like to understand, whether my hon. Friend agrees to the proposal in the Bill that these two offices should be created and being created, they should be exempted from the provision enacted in article 102 of the Constitution ? Let us understand it very clearly and if my hon. friend is going to take the whole of the half hour, there is no use going any further.

Shri Tyagi: If he is tired, he might go home.

Mr. Deputy Speaker: I agree any length of time can be taken but so far as this Bill is concerned, it is a very small point.

****Dr. Ambedkar:** I only wanted to understand what exactly was the point my hon. friend was driving at and if he was going to take the whole of the half hour, it is much better to begin tomorrow and finish the Bill.

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*P. D., Vol. 2, Part II, 9th March 1950, p. 1334.

***Ibid.,* p. 1334.

Shri Tyagi: When people are not quick to understand, I take time to make them understand.

Pandit Kunzru (Uttar Pradesh)**:** Do Government insist that the Bill should be passed today?

Dr. Ambedkar: I am not saying so. It is only the Hon. Deputy Speaker who says, "let us sit for half an hour."

Pandit Kunzru: I think it will be a fruitless discussion and I venture to think that the discussion will end quicker if we adjourn till tomorrow.

***Dr. Ambedkar:** On the first point raised by my friend, Mr. Tyagi, as to whether there is at all any necessity for bringing in this measure, I think what has fallen from the Prime Minister should suffice, and I would only like to add this by way of clarification : Our real difficulty has arisen by reason of the fact that the definition Article, Article 366, does not define the word "Minister". Therefore the word "Minister" is left to be interpreted in two ways, either in the larger sense which would include not only Members who are Ministers but also Members who are Deputy Ministers or Ministers of State. It would also include in the popular sense Parliamentary Secretaries and also Parliamentary Under-Secretaries. That is one interpretation which is perfectly possible, but it is also possible to put a narrow construction whereby Ministers would mean not Ministers including Deputy Ministers, Ministers of State, Parliamentary Secretaries or Parliamentary Under Secretaries, but only Members of the Cabinet. As the House knows that there is customarily—I am deliberately using the word 'customarily'—quite a distinction between Ministers who are Members of the Cabinet and Ministers who are not Members of the Cabinet, and it is quite possible for anybody, even for a Court, to put the narrower construction and confine the *de jure* interpretation of the word "Ministers" to Members of the Cabinet only, in which case undoubtedly.....

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*P. D., Vol. 2, Part II, 10th March 1950, pp. 1344-48.

Pandit Kunzru : Which Court is my hon. Friend referring to ?

Dr. Ambedkar : Any Court. I am coming to that also. I was only speaking generally. Any person may question that interpretation. If that interpretation is questioned, obviously, there would be difficulties. Therefore, it is by way of caution, by way of removing any kind of doubt or difficulty that this Bill has been brought in, and as I said, if the interpretation given by my friend, Mr. Tyagi, was upheld in a place where such question was likely to be raised, no one would be unhappy if it was then found that the Bill was unnecessary, but if unfortunately notwithstanding the great argument, the extensive argument, the original argument addressed by my friend, Mr. Tyagi, it was found that that construction was not the correct construction, then it would be obvious that the Parliament did wise in passing this Bill. Therefore so far as the exact provisions of the Bill are concerned, I think a cautious House ought to support them. I would not say anything more on that point.

In regard to the other question, *viz.,* disqualification incurred by Members of the House by reason of the fact that they are holding some kind of office which is outside the Ministerial offices.....

Shri Sidhva: I mentioned Committees.

Dr. Ambedkar: That is why I said non-Ministerial offices. I am using the exact legal term. That question, I think, requires to be considered. That question was raised yesterday after Parliament rose, but unfortunately when I went to my room, I found that all the libraries were closed and I could not get the necessary books of reference which I wanted to consult, because I knew that this matter would be raised in the House and I thought that I should be prepared to give some kind of reply as far as I could under the circumstances. I have applied my mind to this matter and all I can say is that I have come to some tentative conclusion which I should like to present before the House.

In the first place, I should, like to remove the sort of scare which has been raised by my friend, Mr. Sidhva, that any enemy of his might create trouble. I hope he has none. I think he is one who may be correctly described as *Ajatashatru*. Any how, our Constitution has made ample provision that matters of this sort relating to disqualification should not go to a Court. By Article 103 we have left the power to decide whether any particular Member of Parliament has incurred a disqualification by reason of accepting an office of profit or not, with the President. The President is the final authority. Under Article 103 the President has been released—very deliberately and very wisely—from acting on the advice of the Ministry, because it was felt that the Ministry might give an interested advice to the President. Therefore, in this particular case relating to disqualification arising out of holding an office of profit, the President is required to act on the advice of the Election Commissioner.

Shri Kamath: What about clause (2) of Article 103 ?

Dr. Ambedkar: I am coming to that. Article 103 is, so to say, an exception to article 74. Under Article 74 the President is required to accept the advice of the Ministers in all matters relating to legislation and administration. With regard to this, an exception has been made, and as I said, a deliberate exception has been made so that no political influence could be brought to bear on the decision of the question by the President.

Shri Kamath: Which is the body which acts for the Election Commissioner now ?

Dr. Ambedkar: We are immediately constituting the office of the Election Commissioner, and I have no doubt about it that before any such question is presented to the President, the Election Commissioner will be there to deal with the matter.

Shri Kamath: In this particular case, clause (2) of Article 103 which is mandatory has not been observed.

Clause (2) says :

> "Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion."

Mr. Deputy Speaker: No such question has been referred to the President.

Shri Tyagi : *rose—*

Dr. Ambedkar: Sir, I cannot answer to all these petty questions which have no bearing on the question. My friend, Mr. Sidhva, had suggested to the House that any number of people could go to the High Court or the Supreme Court and obtain a decision. That procedure is barred under the Constitution. That matter is left entirely to the President.

Now, I come to the other question which Mr. Sidhva very pointedly raised as to what would happen to Members of Parliament who have been appointed to various Committees. Would they incur disqualification or would they not incur disqualification ? Now, I have here before me an analysis of the various types of Committees on which Members might be invited to serve and where they might get some sort of remuneration or fee or something. The first is this : Membership of Committees or Commissions constituted by a resolution of Parliament or under rules made by Parliament, for instance, the Public Accounts Committee, the Estimates Committee, the Standing Committees attached to various Ministries etc. There might be various others, but the substantial point is that Committees are appointed by a resolution of Parliament or under the rules made by Parliament. I speak of course without any kind of dogmatism but I do not feel any doubt that the membership of any such committee would involve any disqualification, for the simple reason that the appointment is made by Parliament either by rules relating to any particular committee or generally by rules framed for the constitution of committees.

The second class of membership relates to all corporate bodies constituted by an Act of Parliament, such as, for instance, where an Act provides for the election of Members by Parliament either from among its Members or from

outsiders, for example the Indian Oilseeds Committee, the Indian Nursing Council, the Employees State Insurance Corporation or the Central Silk Board. Under the same category are also cases where such Members are appointed by the Central Government, such as, for instance, the Coal Mines Stowing Board, the Delhi Transport Authority and so on. I am only expressing here my tentative conclusions and it seems to me that under the first category where Parliament provides for the election to certain statutory bodies that could not be regarded as an appointment by Government and therefore membership of a committee like that, in my judgment, would not involve any disqualification. But with regard to the second category where such Members are appointed by the Central Government I feel a certain amount of doubt. I think that that probably might involve a certain disqualification, for the simple reason that although the bodies to which appointments are made are statutory bodies created by a law enacted by Parliament, yet the appointment is by Government. Therefore, that is one element to be taken into consideration in deciding whether the possible consequence may not be disqualification. It is possible to make a further distinction, namely, that a Member of Parliament appointed by Government to a statutory body such as under the Coal Mines Safety (Stowing) Act or the Delhi Transport Authority may be paid out of the funds belonging to that particular authority and not from funds belonging to Government; whether that would be a possible basis for distinction I have my doubts. I personally think that that would involve disqualification, because it may be regarded and interpreted as a fraud upon the Statute, by getting a Member of Parliament to be appointed but to be paid by somebody else. I think that is a case which must be excluded .....

Shri T. T. Krishnamachari (Madras)**:** It is not considered as falling into that Category.

Dr. Ambedkar: I do not know. My friend Mr. T.T. Krishnamachari will allow me to say that I have not slept the whole of last night. I have been reading Halsbury and a number of other books, as the subject is so complicated. Anson's is the only book I have which could give some guidance

and I shall pass it on to him. It was published in 1922 and probably it gives the best assistance in this matter. My hon. Friend will have his right to speak and here I am only expressing my tentative conclusion.

Shri Kamath : The Hon. Minister will have good sleep to night.

Shrimati Durgabai (Madras)**:** What is the position in regard to the All-India Nursing Council constituted under an Act of Parliament ?

Dr. Ambedkar : Probably that would not involve any disqualification. Now I come to membership of Advisory Councils or committees constituted under an Act of Parliament or appointed by a statutory corporation. Take for instance the Damodar Valley Corporation. As I said, I am not certain about it also. (*Interruption*) I am not advising any particular client. I am very sorry to say that, I am making a general statement. If the hon. lady is interested in the Nursing Council she had better go to a lawyer and obtain his advice.

Shri Sidhva : That is not fair.

Shrimati Durgabai : You said that Coal Mines Safety (Stowing) Act does not come under the disqualification .....

Dr. Ambedkar : I looked it up overnight and found out what the provisions were.

Then I come to membership of committees, Commissions or Councils or other similar bodies constituted by Government for specific purposes by resolution or order, for instance, membership of the Governing Body of the Indian Council of Agricultural Research, membership of the Fiscal Commission, membership of the Government Trading Enquiry Committee (*Interruption*) I do not want to hide anything—membership of the Special Recruitment Board, representatives or delegates to United Nations Organisation or any international conference or association. I feel rather doubtful about membership of committees, commissions or councils or other similar bodies constituted by Government for a specified purpose by resolution or by order.

As I have stated my view is that in certain cases Members of Parliament would not be affected. In certain cases they might be affected. As my friend Prof. Ranga said—and I whole heartedly agree with him—this question of disqualification by reason of holding an office of profit is one of the most important matters. It has been and could be a tremendous influence for corruption and therefore we have to proceed very carefully in this matter. In England I do not know what they do but I have found that they have no general law as such. Whenever they make a law under which they create a particular office, in that very Act they provide whether the holder of that office shall be deemed to be disqualified for being a Member of Parliament, so that no general theory is there. Each case is dealt with particularly and Anson's Vol. I gives quite a long list. There every Act is mentioned and the office it has created and whether the holder of that office under the particular Act shall continue . to be a Member of Parliament or not. I am afraid we have therefore to be very cautious.

One thing I am prepared to admit, namely, that those Members who are already holding office, which, as I said, might lead to disqualification, if they have to give up their offices immediately, administrative difficulties might be created. The work might be held up and it might be possible and even desirable to have a short measure removing the disqualification from the holders of those offices for the present, so that we would get sufficient time later on to consider what general principles we should adopt. If there is a certain amount of delay in carrying out the suggestion which I have made, we can rectify it by passing an Indemnity Act, giving it retrospective effect, so that all those who are holding offices today need not be in danger of incurring any such disqualification. I do not think that we can really rush into this matter and have a general clause exempting anybody and everybody without either proper consideration or examination. I admit that if the disqualification applied without any qualification to Members who are working on various committees, some difficulties might be created. If the House so desires I would be quite prepared to consider a small measure of one clause and bring it before the House to give it retrospective effect and also to add to it an indemnity clause,

so that if there is any lacuna in the legal position a Member will not be deemed to have vacated his seat. More than that I am afraid I cannot do at this stage.

With regard to the omission of part-time offices from the Bill I think the reply that I have given, namely, that you have to be very cautious in extending the principle of exemption to holders of office, applies to them also. I may say that the original clause in the Ordinance was taken from the war-time Ordinance which was Ordinance LII of 1942. My friend Mr. Kamath will realize that it is perfectly legitimate to widen the principle in an emergency when there are so many offices to be filled and the number of men available is so few that we have necessarily to go to Parliament to pick up Members to officiate on those occasions. But what is necessary in wartime and in an emergency should not be applied in normal times. That was the consideration which prevailed upon me in deleting the clause which originally found its place in the Ordinance.

Shri Kamath : Was it not the Law Ministry itself which drafted the Ordinance ?

Dr. Ambedkar : The Law Ministry can forget and also be forgiven. The Law Minister is not omniscient. I live to learn, and if I can learn from my friend Mr. Kamath I shall be only too grateful. This is all that I have to say.

Shri Kamath : *rose* —

Mr. Deputy Speaker : We have only three minutes to adjourn for Lunch. I hope the hon. Member would not take more than three minutes.

Shri Kamath : There are some legal and constitutional points which I have to make and I will take more than three minutes.

At the outset may I make it clear that in my judgment—I have learnt a lot from Dr. Ambedkar during Constitution making and I have much more to learn from him ; I wish to reciprocate the compliment—there is no need to rush or hustle this Bill through, because even if this Bill were passed by this House before this midnight, that is, of the 10th, it will

not, constitutionally speaking validate the membership of the Deputy Ministers and the Ministers of State; it will not remove the disqualification which they have incurred already.

Dr. Ambedkar : With your permission, Sir, I would just like to mention that there is nothing original in this point. It is borrowed from the view of the Patna High Court. But I find both my friend Mr. Tyagi and Mr. Kamath are making this point. The President is not the court; the President may take a very different view from what the court may take.

***Shri Kamath :** The Constitution does not make that clear at all. It refers only to Cabinet Ministers, as Dr. Ambedkar said, and that was why the Ordinance was promulgated by the President.

Sir, the next point is this.

Some Hon. Members : It is time for the House to rise.

Mr. Deputy Speaker : hon. Members are giving him a little more time ?

Shri Kamath : Because of the legal points in which my hon. Friend Dr. Ambedkar is interested .....

Dr. Ambedkar : I am interested only in getting the Bill through.

Mr. Deputy Speaker : The House wants to rise evidently. The House stands adjourned till 2-30.

The House then adjourned for Lunch till Half-Past Two of the Clock.

The House re-assembled after Lunch at Half-Past Two of the Clock.

[MR. DEPUTY SPEAKER *in the Chair*]

Shri Kamath : Sir, the Law Minister is not here.

Shri Sidhva: The Minister of State for Parliamentary Affairs is there.

Mr. Deputy Speaker : Yes,

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*P.D., Vol. 2, Part II, 10th March 1950, pp. 1349-50.

Shri Kamath : Oh, the Law Minister has come.

I am glad that my hon. friend has arrived in the nick of time. I am glad also that in the forenoon he admitted—casually, of course—that a mistake, constitutional though technical, had been committed in respect of this matter.

Dr, Ambedkar : I have not admitted any such thing at all.

Shri Kamath : He referred to the Patna High Court ruling and said that Mr. Tyagi and myself are taking a stand upon that ruling and that we need not go very deep into that aspect of the matter. He further went on to say that he is not interested in legal issues or legal points—he is interested in merely getting the Bill passed or rushed through, I do not remember what was the word he used. May I ask you, Sir, and the House, that if the Minister of Law is not interested in legal points who would be interested in legal points ?

Mr. Deputy Speaker : Leave that alone.

Shri Kamath : Sir, that concerns the right of the Members of this House. The Minister of Law is there and he says that he is not interested in legal points.

Dr. Ambedkar : I am interested in the merits of the case.

Shri Kamath: Sir, legal points to a Law Minister at least—if he means to be a Law Minister in truth, in fact and in earnest—must be as much a case of merit as of law.

Mr. Deputy Speaker : What is the good of misunderstanding the Hon. the Law Minister ? He says, "So far as the law is concerned, leave it to me. Please tell me facts if there are any."

Shri Kamath : May I ask on a point of right as a Member of the House whether if a Minister takes a particular stand, a Member cannot raise a point of privilege of the House ? I do not know what the future has in store for him ; he perhaps is thinking of some other portfolio. I do not know anything about reshuffling of portfolios but there are lots of reports in the papers. But I feel that it should not have been stated in the House that a Minister of Law is not interested in legal points.

Dr. Ambedkar : Parliament is not a Court.

Parliament (Prevention of disqualification) Bill

***Mr. Deputy Speaker :** Dr. Ambedkar.

Dr. Ambedkar : I find that Members have really travelled ground which is far away from the main proposition embodied in this Bill. I have been asked to explain how this doubt arose. In whose mind did it arise first ? I have been asked to explain how is it that in no other country such as Australia or Canada is any such legislation found necessary ?

Well, with regard to the first point, I have no hesitation in saying that I myself felt doubts. I admit that, because notwithstanding many allegations that have been made, I was to some extent responsible for the framing of the Constitution. I have no hesitation in saying that I do not know of any Constitution in the world which can be said to be proof against doubt or against any kind of wrong understanding. Otherwise, if every Constitution was proof against doubt that would not have been these voluminous decisions of the various Supreme Courts in the different countries. Therefore, if I felt even as Chairman of the Drafting Committee that there was doubt in this matter, I am not ashamed to acknowledge it and there is nothing cavalierly in my behaviour when I say there is some doubt in this matter.

I shall explain why I felt there was doubt. My friend, Mr. Krishnamachari said that the phrase 'Council of Ministers' was taken really from the Government of India Act, 1935 where the language used was 'Council of Ministers' and that language was evidently borrowed by the draftsmen of the 1935 Act from the older Act where the words were 'Executive Council'. Now, I felt that if anybody was to interpret the phrase 'Council of Ministers' he would, no doubt, be justified in taking into consideration the circumstances in which that phrase 'Executive Council' was used, and would be justified, in interpreting the intention of the phrase 'Council of

*P.D., Vol. 2, Part II, 10th March 1950, pp. 1360-64.

Ministers' by reference to the 'Executive Council'. Now, it is quite obvious that the 'Executive Council' meant only members of the Executive Council of the rank of Ministers, because at that time there did not exist any such category of people as we call now by the names Deputy Minister or Minister of State or Parliamentary Secretary or Parliamentary Under Secretary. These are offices which have been created long after the Government of India Act, 1935 in its original form ceased to be in existence. I, therefore, felt that probably as we had especially not defined the word 'Minister' or 'Council of Ministers' in the article dealing with definitions, it would be open to anybody to suggest that the 'Council of Ministers' was a phrase used on the same analogy as the 'Executive Council' and therefore it would be open for anybody to say that these officers were not intended to be included.

That is the basis of the doubt which I felt, and I do not see any reason why Parliament should not be called upon to pass a law to place the matter beyond doubt. I do not think, therefore, that there is any unwarranted attempt on the part of the Government to force upon the Parliament a Bill the object of which is to remove doubt. I can point out many cases where Parliaments have passed Acts for the purpose of removing a doubt, and I do not think I am asking Parliament to enter upon any very extraordinary activity in doing the same with regard to this Bill.

With regard to the point raised by my friend, Pandit Kunzru, as to how the Governments in Canada or Australia or other Dominions are carrying on their affairs without any such legislation as is proposed now, I really want to know from him whether he thinks that the Constitution of Australia or Canada does not contain any such provisions as is embodied in Article 102, laying down disqualifications on the ground of holding an office of profit. I have had time only to refer to the Australian Constitution and there is a definite section there that a person holding an office of profit under the Crown shall not be qualified for being a Member of Parliament.

Pandit Kunzru : That is right.

Dr. Ambedkar : I do not know whether he had had the time to examine any law made by the Australian Parliament to overcome any difficulties which undoubtedly must arise by reason of that particular section in the Australian Constitution. I have not had the time to examine it, but I just cannot understand how, if the Australian Parliament does permit its Members to hold offices of profit and at the same time sit in Parliament and be Members, they could have done so without some kind of legislation. As I said, I have not had the time to study this, but *prima facie* it seems to me one of the most impossible propositions that the Australian Parliament should be permitting its Members to sit in the Parliament, vote and take part in the proceedings and at the same time hold offices of profit, without a law such as the one proposed here, but I cannot say.

Now, I come to another point and it is this. My friend, Mr. Kamath, among the various points that he was seeking to make which on account of my limited intelligence I could not unfortunately follow, made one point which, I think, I could follow and which, I think, requires some kind of explanation. He has said that the draft of the Bill brings in also a member of the Government of any State, and his contention was that the draft was clumsy. I think that if he had read the clause carefully and also referred to clause 1 of Article 102, would have seen that the language is not only necessary but perfectly justified. My friend will realise that clause 2 of the Bill deals with two cases, one for being chosen as a Member, and one for being a Member, that is to say, continuing to be a Member. Now, it is proposed that not only a person holding an office of profit under the Government of India should not be disqualified from standing as a Member of Parliament, but similarly a Minister of State or Deputy Minister or Parliamentary Secretary or Parliamentary Under-Secretary who is holding that office in a State, he also, if he wishes to stand in the general election for membership of Parliament, should not be disqualified by reason of the fact that he holds that office in the State. That is the reason why holding an office of profit in a State has also to be brought in because

the object of the Bill is to free both categories of people,—Ministers of State or Deputy Ministers or Parliamentary Secretaries or Parliamentary Under Secretaries, whether they are in the Centre or whether they are in a State—from this embargo. That is the reason why the words "under the Government of India or the Government of any State" have been brought in.

Shri Kamath : What about the point I raised ?

Dr. Ambedkar : I am coming to that.

The question may arise that if you permit the holder of an office mentioned in clause 2, in a State, to stand for election for Parliament, then he would also be entitled to continue to be a Member of Parliament after he is elected, because the words are "for being chosen, and for being". My friend will see that that difficulty will absolutely disappear automatically by a constitutional provision contained in Article 101, because as soon as a Minister of State or a Deputy Minister or a Parliamentary Secretary or a Parliamentary Under-Secretary from a State is elected to Parliament, he will have to make his choice whether he would continue to be a Member of Parliament or whether he would continue to be a Member of the State Legislature. Consequently, although the provision is worded in this manner, it certainly would not create any kind of difficulty which he perhaps has in mind.

Shri Kamath : Under the Constitution, is it possible for the States or even for the Centre to have Ministers of State or Deputy Ministers who are not members of the Legislature concerned ? A Minister could be a Minister without being a Member of the Legislature, but so far as I can interpret the Constitution, a Minister of State or a Deputy Minister cannot hold that office without at the same time being a Member of the Legislature.

Dr. Ambedkar: For six months he can. So far as that drafting aspect is concerned, I think I have made the matter quite clear.

My friend, Mr. Krishnamachari, has been writing me on the point which I made that I have spent a great deal of time in studying this matter last night. I am sure about it that my labours would have been considerably shortened if the paper to which he referred just now *viz.,* the Parliamentary paper, had been available to me. As I said, when I went, the Library was closed. I think that either the Library was closed or my friend ran away with the paper and did not allow me an opportunity of studying the paper.

With regard to the comment made by my friend, Mr. Kamath, that I slipped when I said that some portion of the Bill *viz.,* relating to Parliamentary Secretary and so on was a new thing and not contained in the original Ordinance, I do not think there is any ground for him to complain or any necessity for me to apologise. I quite *agree* that if a Member makes a slip, states wrong facts and these facts have the result of either misdirecting the House or misguiding it, there would undoubtedly be ground for doing so, but it was just a slip. Everybody knows that and I do not think therefore, that that was something which required complaint or comment. I can say that I have a less perfect memory than my friend, Mr. Kamath, has. I do not think that there is any point that has been left out by me without being answered.

Pandit Kunzru : Will the Hon. Minister tell us whether the Ministers of State belong to the Council of Ministers or not and whether they are appointed by the President.

Dr. Ambedkar : My hon. Friend asked me that question before. He knows very well, I think, that the position inside the Ministry is never regulated by law. It is always regulated by convention. It is the privilege of the Prime Minister to select any person to be a member of the Cabinet, although he may not be specifically designated as a Minister. It would be perfectly open to him to say "In my cabinet, I will include only certain Ministers. I will not include other Ministers but I would also include a Secretary of State or a Minister of State". The internal arrangement of the Cabinet has always been, as the hon. Member knows, a matter of convention. If he wants I can state the position as it exists now but he must

understand that that is only for the time being. The present Prime Minister may after the method of working of the Cabinet or if a successor comes he may also adopt a different arrangement. There is therefore, no use.....

Pandit Kunzru : May I interrupt my hon. friend ? Does he take the phrase "Council of Ministers" to be synonymous with the Cabinet ?

Dr. Ambedkar : I do not. As I said in my opening speech this morning this is a phrase which is capable of double interpretation. I have seen observations by writers on Constitutional Law, where they have stated that even Parliamentary Secretaries or Parliamentary Under-Secretaries are included in the term Minister. There are also other writers who maintain that 'Minister' is a narrower term. Therefore, as I said, it is very difficult to satisfy anybody or give a correct answer. This is a fluid situation and must remain fluid : that is the important part. There is no use pinning me down to give my hon. Friend a clear picture of how the Ministers and the Parliamentary Secretaries, all of them stand together *vis-a-vis* each other.

Pandit Kunzru : I am sorry I have failed to make myself understood. I am not criticising my hon. Friend. All that I am seeking to know is this. If the Council of Ministers does not mean the same thing as a Cabinet, then obviously it can be a wider body than the Cabinet.....

Dr. Ambedkar : Yes.

Pandit Kunzru : ..... and the Ministers of State and the Deputy Ministers can belong to it. No question therefore, arises with regard to their position.

Dr. Ambedkar : I need not dilate upon this. The hon. Prime Minister in a most authoritative statement said that in his opinion the Council of Ministers included everybody.

Shri T. Husain (Bihar)**:** I want to ask one question. It is clear under the Constitution that a Minister can be a Minister for six months without being a Member of Parliament. That is mentioned in the Constitution itself. There is no such mention about the Minister of State or the Deputy Minister,

or the Parliamentary Secretary or the Parliamentary Under secretary. The Hon. the Law Minister told us just now that according to his reading of the Bill a Minister of State, a Deputy Minister, Parliamentary Secretary or Parliamentary under-Secretary can hold office for six months without being a Member of Parliament. I have read the Bill again and I do not understand how the Hon. Minister came to this conclusion. Would he explain ?

Mr. Deputy Speaker : It is not absolutely germane to this Bill. The hon. Member may look into the matter at leisure.

Dr. Deshmukh: Sir, one point may be made clear, which is on a matter of fact, *viz.,* whether Deputy Ministers are appointed by the President. This is a matter of concrete fact and probably the Hon. Minister may be able to reply.

Mr. Deputy Speaker : How is it necessary in this connection ?

Dr. Ambedkar : Surely, they are appointed by the President : who else call appoint ?

Mr. Deputy Speaker : The question is :

> "That the Bill to make provision in regard to certain offices of profit under Article 102 of the Constitution, be taken into consideration."

The motion was adopted.

***Shri Tyagi :** I beg to move:

> "That in the heading of clause 1, after the words 'Short title', the words *'and commencement'* be inserted."

It is a very simple amendment and I hope the Doctor will accept it.

Dr. Ambedkar : Perhaps what my friend Mr. Tyagi has noted is that there is no clause stating the commencement. Generally a Bill has a clause saying that the Bill comes into operation from such and such a date. This clause does not exist here, and he thinks there is a lacuna which ought to be filled. But may I submit that under the General Clauses

*P.D., Vol. 2, part II, 10th March 1950, p. 1365.

Act, where a Bill does not contain such a clause it is presumed that it comes into operation immediately after the signature of the President.

Mr. Deputy Speaker : He wants to push the date to 26th January, 1950.

Dr. Ambedkar : It is unnecessary so long as the Ordinance is there.

(12)

MOTION FOR ADJOURNMENT

***Shri Gopalaswami :** May I just point out that Mr. Chamberlain was not on a question of motion for adjournment of debate ?

Pandit Kunzru : Well, I think Dr. Ambedkar relying on the reply given by Sir N. N. Sircar on the basis of Mr. Chamberlain's reply came to the conclusion that in a matter like this there was no essential difference between a demand for information and a demand for discussion. The word used by Sir N. N. Sircar in his reply was "discussion" and that is the word that my Hon. friend Dr. Ambedkar relied on.

The Minister of Law (Dr. Ambedkar) : I should like to say just one word with regard to the comment of my hon. friend on the reply given by Mr. Chamberlain and his attempt to establish a sort of analogy between the position which existed when that question was put and the position that will arise under article 371 of our Constitution. I should request him to bear in mind the essential distinction that exists between our Constitution now and the Government of India Act, 1935. That distinction is this, that while Parliament did enact the Act of 1935 and transferred certain responsibilities to the people of India, they never failed to emphasise time and over again, that the ultimate responsibility for the good Government in India rested with Parliament, and therefore, to the extent that the power was reserved of giving directions it was really responsible for maintaining good Government; while under our Constitution we have given over the power of maintaining good Government to our States and only in some cases we have reserved to the Centre certain powers of direction. That distinction has to be borne in mind.

* P.D., Vol. 2, Part II, 14th March 1950, pp. 1512-13. .

Pandit Kunzru : I entirely disagree with my hon. Friend Dr. Ambedkar, not with regard to the general point that he has raised, but with the construction that he has put on article 371. As my hon. friend pointed out the other day, this article 371 does not apply to States in Class A. It applies only to States in Class B, and why ? Why was this article 371 inserted in the Constitution with reference to States in Class B only ? It was inserted in order to ensure good Government there.

(13)

SOCIETIES REGISTRATION (AMENDMENT) BILL

***Shri Sidhva** (Madhya Pradesh)**:** This is a Bill which I had moved during the last session. The Hon. the Law Minister (Dr. Ambedkar) told me that he would like to take the opnion of the States. I would, therefore, like to know, before I formally move this Bill, as to whether the Opinions of the provinces have been received. If not, I would like to have this Bill confined to the Centrally Administered Areas.

The Minister of Law (Dr. Ambedkar): Sir, in accordance with the promise that I gave when my friend Mr. Sidhva moved his Bill, that in view of the fact that this matter fell under the Concurrent List and according to the Standing Orders of the Government of India, it was necessary to consult the States before undertaking legislation, my Ministry had addressed a letter to the various provinces to ascertain their views with regard to the proposed enactment of a law as proposed by my friend Mr. Sidhva. I am sorry to say that on account of the pre-occupation of the various States, the replies of all of them have not been received as yet. I have received, however, replies from two States in Part A and some of the States in Part C.

With regard to the States in Part A, I have received replies only from Madras and Punjab and I am sorry to say that both of them are opposed to the Centre meeting such a piece of legislation. The Madras Government have said that they themselves have under consideration an exhaustive and comprehensive piece of legislation to deal with the points raised in this particular Bill. The Punjab Government have said that they realised the necessity of having a penalty clause such as the one proposed by Mr. Sidhva, but they say that

*P. D., Vol. 3, Part II, 25th March 1950, pp. 2115-16.

they themselves have recently enacted a law imposing such a penalty and so far as that particular province is concerned, no such legislation is necessary.

With regard to the States in Part C, the position that they have taken is this : that they have no such problem for the moment on hand. Some of them say that there are no such societies existing within their jurisdiction. Others have said that the law which my friend Mr. Sidhva seeks to amend has been very recently introduced within their area in the year 1949. There are no societies and there is as yet no experience to suggest whether any societies have violated the provisions of the Bill. That is the position as revealed by the replies given by the various States to which this communication was addressed. Some of the other important States such as, for instance, Bombay, U.P. and Madhya Pradesh have not replied. This is a matter placed in the Concurrent List and it is desirable that we should have the reaction of most, or the majority of the States in Part A before the Centre can undertake this legislation.

As I said last time, personally I do not think that any one could really dispute the position taken by my friend Mr. Sidhva that if the provisions of this Bill have to be effective, it is necessary to have some such penalty clause. I agree with him. But my point is this that it is desirable to carry the majority of the States in making this legislation and as they have not as yet replied, personally I would have very much preferred that this Bill was either withdrawn or held back on the assurance that the Centre will grapple with the situation as and when time and circumstances permit.

Shri Sidhva: Sir, in view of the statement made by my friend Dr. Ambedkar that he is personally in favour of this Bill and that as this subject is in the *Concurrent* List he would like to have the opinion of all the important States, I would like to hold over this Bill. I cannot withdraw the Bill in any case. It is an important Bill. I know what is happening in the various societies. Therefore, I would request you to allow me to keep this Bill alive. I shall not move it now.

Mr. Speaker: If no motion is made this time, it will automatically be kept alive under the rules.

(14)

ARMY BILL

The Minister of Defence (Sardar Baldev Singh)**:** I beg to move.

> "That the Bill to consolidate and amend the law relating to the Government of the regular Army, as reported by the Select Committee, be taken into consideration."

***Mr. Speaker :** Hon. Dr. Ambedkar.

The Minister of Law (Dr. Ambedkar) : If other hon. Friends do not want to speak, I thought I would like to reply to the two points raised by my hon. friend Pandit Kunzru because they have a constitutional aspect.

Mr. Speaker : I would give him precedence.

Dr. Ambedkar : My. hon. Friend Pandit Kunzru, in the course of his speech on the motion, raised two points. As they refer to the constitutional aspect of the matter, I thought that it may be appropriate that I should deal with them rather than leave them to be dealt with by my hon. colleague.)

The first point was that clauses 4 and 5 of the Bill were inappropriate in view of the fact that they made separate mention of the Forces in Part B States. I will take these two sections separately.

With regard to section 4, I think my hon. friend will agree that under the scheme of this Act, there is a distinction to be made between what is known as the regular Army and Forces which do not form part of the regular Army. My friend will see that the regular Army is defined under item 21 of section 3 which deals with definitions. For instance, there are what are called Assam Rifles, Bhil Corps and several other units which may be mentioned as illustrations which do not

*P.D., Vol. 4, Part II, 6th April 1950, pp. 2601-5.

form part of the regular Army. As the Act principally applies to the regular Army, it is necessary to provide for an eventuality where the provisions of this Act would have to be extended and applied to units which are not part of the regular Army. That is the purpose of section 4. Section 4 says.....

Pandit Kunzru : Are these Forces Part B States Forces ?

Dr. Ambedkar : I am coming separately to Part B States. So far as section 4 seeks to apply the provisions of this Act to units for the moment other than those referring to Part B States, I do not see that there can be any valid objection to the provisions contained in that particular section.

With regard to section 5 which deals with Part B States, my hon. Friend's contention was that this was inappropriate, and also the latter part of section 4 which made mention of Part B States. The answer to that question is this. My hon. Friend will remember that in the earlier part of the Constituent Assembly, the position was that the States in Part B which were then called Acceding States, had been given power to raise and to maintain independent Forces of their own. If he has got a copy of the original draft of the Constitution, he will see item 4 on page 189 and he will also find that I took objection to that provision. I did not want that any particular unit under the Union should have a right to raise and to maintain troops. I was glad that my contention prevailed, and that part of the entry was deleted. So that, the right to raise and maintain troops under the Constitution exclusively belongs to the Union. Although this position was accepted, it did not remove altogether the difficulty.

As my hon. Friend well knows, there were certain covenants that were entered into between the Government of India and the various Indian States mentioned in Part B. One of the terms of the covenant was that the States which had certain Forces maintained and raised by them should be continued to be maintained by them and that what should be prevented was the raising of new troops. The existing units were to be continued. Then arose the question what is to happen to the existing units : were they to be independent

or were they to be subordinate to the military authorities of the Government of India ? A compromise was entered into which is mentioned in article 259 to which he referred. Therein it is provided that although the troops already raised were to continue, they were to be subject to any law that Parliament might make. Now, it was possible for Parliament to make a law declaring that for all purposes the troops raised already by the States in Part B would be regarded as part of the regular Army of India. That is, of course, the intention. But, as I said, these matters were governed by the covenant. Although the Rajpramukhs who represent the States in Part B were prepared to accept the provisions contained in article 259, that is to say, confer the power on Parliament to make such a law, they still desired that they should continue to be the Commanders-in-Chief of those Forces and that their position ought to be safe-guarded. These things arising out of the convenants which, as I said, had already been entered into and on the basis of which accession was made, had to be respected. I hope and trust that a time will come when the States would voluntarily agree to Parliament exercising complete jurisdiction, effecting complete assimilation between the Indian regular Army and the Forces raised by them. Therefore, what we have to do today is to effect a sort of a compromise. These sections 4 and 5 really represent the best compromise that we can make.

Pandit Kunzru : If I may interrupt my hon. friend, he has dealt with a very wide question. My criticism was limited to one point only. Why has not the power conferred on Parliament by article 259 of the Constitution been used to extend the Army Act to Part B States Forces ?

Dr. Ambedkar : That is what I am dealing with.

Pandit Kunzru : I did not deal with the wider aspect of the problem on which my hon. friend has dwelt so far.

Dr. Ambedkar : But, the wider aspect is the real aspect. The whole question is governed by the covenants which were entered into before the Constitution was made, unless, of course, my hon. Friend's position is that covenant or no

covenant, agreement or no agreement, understanding or no uderstanding, wherever Parliament has got power, Parliament should exercise it. That would be a different position.

Pandit Kunzru : Surely my hon. friend knows that on the 24th January the Unions of States and the State of Mysore issued a proclamation accepting the Constitution and saying that the agreements that were inconsistent with the provisions of the Constitution were invlaid.

3-00 P M

Dr. Ambedkar : Yes. That may be so. As I said we are following really an understanding. Before I go to that, I would like to draw his attention to the fact that he has not adverted to an important point of cluase 2, *viz.,* part (*b*) of clause 2 which says:

> "persons belonging to the land forces of a Part B State, when such persons are attached to any body of the regular Army for service, or when the whole or a part of the said forces is acting with any body of the regular Army or is placed at the disposal of the Central Government in pursuance of a notification under section 5;"

Therefore, it is not altogether as though this law places the Forces in States in Part B in a separate water-tight compartment. When the Central Government issues a notification under clause 5, then as soon as the notification is issued, this Act would apply to that part of the Army in Part B States automatically. He will also see that under clause 5 there is power given to the Central Government to see that any particular Part of the Forces in Part B shall for the purposes of this Act be treated as attached to the Indian Army. That also is a direct power of intervention so far as attachment of certain Forces is concerned.

My friend asked why we have not taken direct action. The answer is, to my mind, obvious. He will realize that the Forces in States in Part B were raised under their own individual laws and were not raised under any Act of the Central Government. The condition on which enrolment was made in Part B States materially differed from the rules and conditions regarding enrolment of personnel to the Indian Regular Army. One important difference was this that the person enrolled in the Indian Regular Army was bound to save anywhere but

with regard to a person enrolled in Forces belonging to the Part B States, such a conditon was not there. I think it is in everybody's knowledge that their conditions of service were confined to their States and the widest circuit of their service was India. It was during the war that special provision was made when these troops were placed under the control of the Government of India with the condition that they may be used anywhere. It was the Government of India who bore the expenditure and sent them to battle-fields outside India. That being so, it does appear to be somewhat difficult, harsh and illegal even to compel a man who has been enrolled under different set of circumstances to come and be a part of the Regular Army. Consequently, the fact that we have had convenants with the States forces as to adopt what might be regarded as a *via media* and I do not think that from either point of view any objection could be raised to the provisions contained in clauses 4 and 5.

Now, I come to the other point raised by him, *viz.,* clause 70 which deals with the authority of the Court Martial to try what are called civil offences. It is quite true that offences against civilians should be tried by civilian courts and not by military courts but there are considerations which weigh on the other side and which support the provisions contained in this Bill. Let me give first some of the difficulties which one has to face in deciding upon an issue of this sort. Suppose an offence is committed by a solider within the barracks where the army is stationed, which should be the forum, the Court Martial or the Ordinary Magistrate's Court ? Let me point out another difficulty and it is this. An offence is committed against a civilian but that offence is such that while it involves the breach of an ordinary criminal law at the same time, it involves what is called a breach of the rules of discipline which every soldier must follow. What would be the appropriate forum in a case like this where the act committed by a soldier is equally an offence under the ordinary criminal law and is also a breach of discipline under the Army rules ? Take another illustration. Supposing an army is about to move from one place to another : every soldier belonging to that army must move. Then suppose we made

a provision that every offence committed by a soldier must be tried by a civilan court. It might be that a recalcitrant solider who does not want to move with the troops to another station deliberately gets himself involved in some kind of a crime in order to stay back so that the civilian judge may try him. Should that be allowed ? If my friend himself were to exercise his mind on the subject he would find many other difficulties with which he would be confronted if he came to the dogmatic conclusion that all offences committed by a soldier against a civilian must be as a rule tried by a civilian court:

Pandit Kunzru : That was not my contention.

Dr. Ambedkar : Therefore, I say there can be no question of having any dogmatic opinion about this question. None can say that all such offences must be tried by the Military Court nor can anyone say that no such offence shall be tried by a civilian court. Consequently the Bill makes certain compromises which are in keeping with the necessities of the case. The trial of offences committed by a soldier which are to be tried by a military court are limited in number. They are murder, culpable homicide, etc.

Pandit Kunzru : By a military court or a criminal court ?

Dr. Ambedkar : By a criminal court. All others may be tried by court martial.

In connection with this there are other provisions in the Bill which must also be taken into consideration. They are clauses 125, 126 and 127. The discretion or the jurisdiction of the courts martial to try offences which are left to them is not absolute but it is governed by the provisions to which I have referred, namely, the military court under clause 125 may decide whether they want to try the offence. If the civil courts think that the offences should be tried by them they should under clause 126 obtain the permission of the Government of India and if the permission is granted they can proceed to try the offence. There is a further provision which in a sense is rather an extraordinary thing, namely, "Successive trial". If it was found that the offence was a grave or serious one but the court martial which was permitted to try the offence let off the man with a light punishment, then

subject to the permission granted by the Government of India, the man could be tried twice. Having regard to the difficulties mentioned, namely, of allowing civil courts to try all offences and having regard to the fact that there are the provisions contained in clauses 125 and 127, I do not envisage that there is likely to be far more cases which can be described as containing miscarriage of justice. I think we have taken enough precaution to prevent that sort of thing happening and therefore I submit, that having regard to these provisions and having regard to section 70 there can be no objection to this part of the Bill.

I might also mention—I think reference was made to it by somebody—that clause 70 of this Bill is virtually a repetition of section 41 of the British Army Act. There also they have a similar provision. In the U.S.A. the provisions are more extensive. After all we have to look at this matter from the point of view of the offender, not so much from the point of view of the complainant. In all these cases the offender would be a solider and the question is whether the soldier who is accused of any particular offence and would have been tried by a civil court, if he had not been a soldier, would not get justice at the court martial.

My friend said that the men who sit in the court martial are not trained lawyers. I do not know but I can say from my experience that I have met some Judge Advocates-General who were as good as the lawyers whom we meet in courts, if not better. However, after all a soldier cannot expect to get better justice for having committed civilian offences than he is ordinarily expected to get when he commits a military offence. If he gets the same justice as he gets in the civil courts I do not think there need be any cause for complaint. My friend need not have much confusion about it. I do not think that his criticism is well placed.

Shri S. N. Sinha : What are those cases in which the criminal courts and court-martial have got concurrent jurisdiction ? Under clause 125 the choice has to be exercised.

Dr. Ambedkar : I cannot say. That requires some kind of exhaustive compilation. There are undoubtedly some offences

which come under the jurisdiction of both military and civil courts.

Shri S. N. Sinha : My contention was that clause 70 of this Bill alone gives jurisdiction to the ordinary criminal courts in respect of specified cases.

Pandit Kunzru : There is this doubt in the minds of many hon. Members. If my hon. Friend Dr. Ambedkar will turn to clause 125 he will find that the opening words are: "When a criminal court having jursidiction is of opinion .....". The question is what do the words "having jurisdiction" mean. Do they mean having jurisdiction under the ordinary criminal law of the land or jurisdiction under this Bill ? This is the question that troubles many hon. Members. If it is said that these words mean having jurisdiction under this Bill .....

Dr. Ambedkar : Under the ordinary law.

Pandit Kunzru : Then obviously clauses 69 debars the ordinary criminal courts from dealing with any criminal cases except those which fall under section 70. That is the real question.

Dr. Ambedkar : "Civil offence" has been defined on page 2 of the Bill as meaning "an offence which is triable by a criminal court" as distinct from a court martial.

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(15)

PART C STATES (LAWS) BILL

***The Minister of Law (Dr. Ambedkar):** I beg to move for leave to introduce a Bill to provide for the extension of laws to certain Part C States.

Mr. Speaker : The question is:

"That leave be granted to introduce a Bill to provide for the extension of laws to certain Part C States."

The motion was adopted.

Dr. Ambedkar : I introduce the Bill.

***The Minister of Law (Dr. Ambedkar) :** I beg to move :

"That the Bill to provide for the extension of laws to certain" Part C States, be taken into consideration."

It is perhaps necessary that I should offer to the House some explanation as to why this Bill is restricted to certain Part C States. The position is this, that we have altogether about ten Part C States mentioned in Schedule I of the Constitution. Those ten States fall into three groups. There are Coorg, Ajmer and Delhi which were Chief Commissioners' Provinces now designated as Part C States, and which had come into existence long before the Constitution. Consequently, so far as these three States were concerned, the question of the extension of Central laws does not arise because they applied at the time when they were enacted.

Then there is the *second* group of Part C States which are Bilaspur, Himachal Pradesh, Bhopal and Cutch. With regard to them, it was only last year that this Legislature passed a law extending the Central Acts to them. This Bill is confined to three Part C States, namely, Vindhya Pradesh, Tripura

*P. D., Vol. 4, Part II, 5th April 1950, p. 2551.

***Ibid.,* 11th April 1950, pp. 2777-84.

and Manipur. They have to be separately dealt with because they came into existence as Part C States after the 1949 Act was passed. Consequently, this measure is restircted to these three Part C States. I might mention that although all the laws that were extended to Part C States by the Act of 1949 are extended to Vindhya Pradesh and Tripura, some exceptions have been made with regard to the State of Manipur. All the laws that have been applied previously or are applied by the present measure to Vindhya Pradesh or Tripura are not applied *proprio vigore* to Manipur. It is said that Manipur is largely settled by what are called the tribal people whose civilisation and whose manners and modes of life are considerably different from those who are living in what is called the 'settled area'. Consequently it would create a great deal of disturbance if all the enactments were extended to Manipur and therefore a Schedule has been added as to what enactments will not apply to Manipur. Similarly, while the Indian Penal Code is applied to Manipur, there are two sections of it which are sought to be applied, with a certain modification.

I hope the House will see that there is nothing very complicated about this measure and accept it.

Mr. Deputy Speaker : Motion moved:

> "That the Bill to provide for the extension of laws to certain Part C States, be taken into consideration."

Pandit M. B. Bhargava (Ajmer) **:** I have to make a few observations in respect of this Bill. So far as the extension of any Central laws to the States referred to by the Hon. the Law Minister is concerned, I have got nothing to say. But there is one clause, namely, clause 2 in this Bill which lays down that it will be open to the Central Government by notification in the *Official Gazette,* to extend any Provincial enactment to any of these States in Part C, subject to such modifications and restrictions as may be laid down in the notification ..... I have not the least doubt that if all these extended laws are ever questioned before a competent legal authority, this legislation will not stand the scrutiny of the judicial court and will be declared *null* and *void*. I would, therefore, respectfully request the Hon. the Law Minister to

consider the legal position before proceeding further with this piece of legislation.

Dr. Ambedkar : I am glad my hon. Friend raised this question. I did not bother to it because I thought that the section was so simple that it should not require any explanation. However, now that the question is raised, I think it is desirable that I should explain the position. In going through the merits of this particular clause, there are certain aspects of the case which have to be taken into consideration. The first is this, that in most of the Part C States, except Coorg, there are no local legislatures which could be entrusted with the duty of passing such local laws as may be necessary for their local administration. It is, I think, equally clear and my hon. friend, himself admitted the matter that the only other alternative is for Parliament to sit here and to make detailed laws for the local administration of these Part C States, and the question that has to be considered is this, whether in view of the time which is available to Parliament—and every one knows how difficult it is for this Parliament to get through some of the most essential measures necessary for carrying on the Central Administration—to find time which could be devoted in a meticulous consideration of the details of a local legislation. We are, therefore, so to say between two difficulties ; one is that there is no local legislature and the other is that Parliament is not in a position to engage itself in passing local laws for Part C States. What is, therefore to be done in a situation of this sort ? The only thing that could be done seems to be to give the Government of India the power to extend certain laws made by Part A States or other Part C States to be applied to Part C States with such modifications as may be necessary by reason of local circumstances and local difficulty. I do not see that there is any other way open to provide for local legislation for Part C States. Of course, it would be possible for Parliament at some stage to create local legislative councils for Part C States and to endow these local legislative councils with the power to make laws for their local administration but so long as Parliament has not done it, I do **not** see that there is any *via media* except what is suggested in this particular Bill, and, therefore, apart from

the question whether this is the proper mode of doing the legislative business which Part C States would be entitled to do, from a practical point of view, I do not see that there is any other method open.

My friend put forth a point of criticism that this power has been exercised by the Centre without even consulting such local advisory bodies as exist in Part C States. I do not know much about that aspect of the matter, because as my hon. friend knows the administration of this particular matter rests with the Home Ministry and I have no doubt about it that the Home Ministry does consult these bodies. If they do not, I have no doubt that they will adopt the suggestion made by my hon. friend.

Then, I come to the constitutional question which my hon. friend, has raised, namely, that this will be delegated legislation. Any application of any law made by Part A or Part B or Part C States extended to Pan C States would be a performance of what might be called a delegated legislation, the Parliament delegating the executive to apply that legislation. My hon. Friend referred to the decision of the Federal Court. No doubt there is the decision of the Federal Court. All I want to say is this, that we have not had as yet the decision of the Supreme Court; we are waiting for it, because, with all respect to the Federal Court, the view that the Government of India takes in this matter is that decision was not a correct decision, and with all respect to the Federal Authority, that is still the view that we hold. I might point out to my hon. friend that this activity of the Government of India to employ what is called delegated authority to legislate is not a new thing. It has been in existence practically from 1912 and he will know that we have a law for the purpose of permitting the Central Government to extend the laws made in any part of India to the Province of Delhi with such modifications as the Central Government may make. From 1912 up to the date of the decision of the Federal Court, there has not been in existence a single decision of any Court in India which has questioned the legality of that action taken by the Government of India. I might also tell my friend that

many cases have gone to the Privy Council from this country and the Privy Council itself has never questioned the validity of this. I, therefore, hope that when on a proper occasion the matter comes before the Supreme Court, the Supreme Court will *de novo* examine the position and, as I hold the view, the Supreme Court will not feel itself bound by the decision of the Federal Court, although a good many of the personnel of the Federal Court is the same as the personnel of the Supreme Court, but the court certainly is a different court. Therefore if my friend likes it, I do not mind saying that we are making a venture. We are hoping that the stand that we take and we have taken so far and which has not been questioned by any court during the last 25 years is the correct stand. If the Supreme Court when it comes to deal with the question comes to a decision different to what our point of view is we shall then consider the matter. For the moment it is our view that there is no objection to delegated legislation at all. Parliament is quite supreme either to legislate itself or to ask any other agent on its behalf to exercise that legislative power. I do not think that that matter can be questioned. I do not think that there is any other point raised by my friend which I have not dealt with.

Mr. Deputy Speaker : Is it open to the Parliament to say that the Government may pass such laws as are necessary ?

Dr. Ambedkar : They can say so, that Government is left with the power to frame rules.

Mr. Deputy Speaker : Can they give a blank cheque in regard to all the matters referred to in the list ?

Dr. Ambedkar : It may do so under proper safeguards. No Parliament will give a blank cheque to the executive : it can certainly ask the executive to fill in the blanks and I do not think there can be any difficulty about that.

Shri T. T. Krishnamachari (Madras)**:** So far as the Constitution is concerned the only operative articles are 240 and 242. We have made a special provisions in regard to Coorg. As you will see, Sir, Coorg has been taken out of the operation of the particular Bill before the House. So far as the Constitution is concerned there is no specific direction in this

regard. So it is left practically to the free will and pleasure of the Parliament. The *modus operandi* to be followed is the only thing that can be under dispute, whether the *modus operandi* should be that all these enactments should form part of the schedule attached to this Bill, with such powers as we normally give to the executive by means of what is called delegated legislation, to make rules, etc. or the procedure that is now followed. As the Law Minister has mentioned, this procedure has been followed over a period of years and I am not sure, in the absence of any express instruction to the contrary in the Constitution, how this can be held to be void by any court. So far as delegated legislation is concerned the exact quantum, nature and extent of delegation is not defined by any legislature in the world. It varies from time to time. In the absence of any provision so far as Part C States are concerned which expressly prohibits enacting any type of law that Parliament likes and to delegate such powers as it wants to the Central Government, there could be no objection at the present stage to the Bill being passed by this House.

Mr. Deputy Speaker : The general laws are enacted in a Bill—and power is given to the Government to fill in the details and make the rules.

Dr. Ambedkar : The provision in the Bill is that there are laws already existing on any subject. The laws are already existing in certain Provinces.

Mr. Deputy Speaker : Is it not for the Parliament to choose which law is to be applied ?

Dr. Ambedkar : If Parliament wants it can do it but Parliament entrusts the power to the executive, which has to choose from the existing laws.

Shri T. T. Krishnamachari : The Committee on Ministers' Powers which was constituted by the House of commons to go into this particularly vexed question, what was called Star Chamber Legislation, in the thirties, indicated that it would be preferable for the Government of the day to give an outline as to how far they are going to use the delegated power and that is why we are following so far as ordinary legislation

is concerned the practice of saying that without prejudice to the generality of the foregoing powers such and such shall be rule-making power of the Government. Therefore, there has been no express limitation to the extent and scope of delegated legislation in any legislature in the world so far as is known.

Mr. Deputy Speaker : They have not even indicated the subjects here.

Pandit M. B. Bhargava : The Law Minister was pleased to remark that before the judgment of the Federal Court there was no decision laying down anything contrary to the practice prevalent. I would like to point out that the judgment of their Lordships of the Federal Court is itself based upon the Privy Council decision reported in 1945 Federal Law Journal, page 1. It is on the basis of that authority that the Federal Court has laid down the proposition.

I would also like to know whether the matter is before the Supreme Court and whether a decision of the Federal Court does not bind this Government until and unless it has been superseded or set aside by the Supreme Court.

Mr. Deputy Speaker : Is there an appeal from the Federal Court to the Supreme Court ?

Dr. Ambedkar : No. The Federal Court has ceased to exist.

Babu Ramnarayan Singh (Bihar)**:** Could the Hon. Minister cite the article of the Constitution in this regard ?

Dr. Ambedkar : The Parliament has plenary powers. It can do anything with the legislative power that it possesses. It can use it itself or ask someone else to use it on its behalf in certain circumstances. There is no prohibition imposed on it.

Shri Hossain Imam (Bihar)**:** I should like to have some light thrown on the fact that this is not a peculiar situation that has arisen just now. The Chief Commissioners' Provinces are administered by the Centre. We can extend the power of the Chief Commissioner by notification as was the practice in the past or it can be done by means of legislation as may be done now. But the question is who is to be empowered ?

Are we going to empower the executive, judiciary or the Central Government ? The power should not be distributed between all the three. Sub-clause (3) of clause 3 says:

> "For the purpose of facilitating the application in the said States of any such Act or Ordinance as aforesaid, any court or other authority may construe the Act or Ordinance with such alteration not affecting the substance as may be necessary or proper to adapt it to the matter before the court or other authority."

It shows that we have not made up our mind as to who is to have these powers. I can understand the Central Government being empowered during the interim period. Who is the authority .....

Dr. Ambedkar : Any authority. It is an adaptation: it is not adoption. We have passed so many adaptation laws in this House.

Shri Hossain Imam : This adaptation is done by the Central authority or the Legislature. Here the adaptation is left free to an unspecified number of people. The authority is nowhere defined in this legislation—whether it means the Chief Commissioner or the Chief Secretary .....

Dr. Ambedkar : Whoever will have to administer the law will have to adapt it.

Shri Hossain Imam : We are doing something to which we have not given proper consideration. The Bill has been introduced late in the session. It would be far better if the Government withdew the Bill now and have some kind of Ordinance after the session has ended, if they want to have something of this kind. Otherwise a well considered law should be brought forward in which every kind of power should be given. It would be better to have an Ordinance rather than a Bill of this nature, where there are loose ends. I would, therefore, request the Hon. Minister to reconsider the matter.

Dr. Ambedkar : In view of the fact that my hon. Friend is prepared to permit Government to enact this measure in the form of an Ordinance, obviously, it means that he cannot have much objection to the merits of the thing. Otherwise, I do not see what objection he has for enacting this measure.

5-00 p.m.

Shri Hossain Imam : I was only suggesting. This Ordinance can last until six weeks .....

Dr. Ambedkar : From the commencement of Parliament.

Shri Kamath (Madhya Pradesh)**:** Six weeks after the commencement of the next session of Parliament.

Dr. Ambedkar : We do not know what will happen. I cannot say when Parliament will be called. We do not want to be left in the lurch after having made an Ordinance.

Shri Kamath : How can that be ?

Dr. Ambedkar : This suggestion is a very impracticable suggestion.

Besides, so far as this aspect is concerned, as I have said, we have got a precedent. We have got a similar law with regard to Delhi. We have got a similar law with regard to Ajmer-Merwara, the Ajmer-Merwara Extension Act of 1947. If these two Acts are not so bad as my friend tries to depict them, I cannot understand why there should be any objection to this measure. It may be, if there was time, I could suggest to the House that at a later stage the House may consider the procedure which has been recently adopted in the House of Commons which consists of having a Standing Committee of the House to examine such delegated legislation and to bring to the notice of Parliament whether the delegated legislation has either exceeded the original intention of Parliament or has departed from it or has affected any fundamental prinicple. This is a matter which we may take up independently. I cannot understand how now after long practice, anybody can object to what is called delegated legislation.

Mr. Deputy Speaker : The question is :

> "That the Bill to provide for the extension of laws to certain Part C States, be taken into consideration."

The motion was adopted.

Shri Hossain Imam : May I ask the Hon. Minister to explain why—he has not explained in the Statement of Objects and Reasons—the age of consent has been reduced ?

Mr. Deputy Speaker : He has already stated.

Dr. Ambedkar : The changes with regard to Manipur have been made as a result of a conference which was held between the representatives of the Home Department and the Chief Commissioner in Manipur. It was he who suggested that these changes must be made if the Central legislation is to be extended.

Mr. Deputy Speaker : It is a little premature to apply this section to these areas.

Shri Hossain Imam : The age of consent has been reduced.

Mr. Deputy Speaker : Possibly it goes back to the age of consent under the old law, and all these reforms are not sought to be extended to that area.

Clauses 1 to 4 were added to the Bill.

The Schedule was added to the Bill.

The Title and the Enacting Fromula were added to the Bill.

Dr. Ambedkar : I beg to move:

"That the Bill, be passed."

Mr. Deputy Speaker : Motion moved.

"That the Bill be passed."

Prof. Ranga (Madras)**:** I am glad that the Hon. Minister has given us this information that in Parliament they have thought of the device of establishing a Standing Committee to study these things as and when they come up before them and advise Parliament, as a sort of a watchdog on behalf of Parliament. Unfortunately, the Hon. Minister has not given us any assurance that similar efforts would be made in this House. I do request him to take steps at the earliest possible opportunity to see that this Standing Committee does come to be established by our Government.

Dr Ambedkar : I will bear that in mind.

Mr. Deputy Speaker : The question is:

"That the Bill be passed"

The motion was adopted.

The House then adjourned till a Quarter to Eleven of the Clock on Wednesday, the 12th April, 1950.

REPEALING AND AMENDING BILL

***The Minister of Law (Dr. Ambedkar):** Sir, may I have your permission to take my Bill out of turn ? They are very small ones.

Mr. Deputy Speaker : Yes.

Dr. Ambedkar : I beg to move :

> "That the Bill to repeal certain amendments and to amend certain other enactments, be taken into consideration."

The purpose of the Bill which is brought in annually for the purpose of pruning the Statute-book of what is called the "dead wood" and of amending and making good certain errors discovered in certain enactments. I do not think it necessary for me to say anything more in support of the motion I make.

Mr. Deputy Speaker : Motion moved:

> "That the Bill to repeal certain enactments and to amendments and to amend certain other enactments, be taken into consideration."

Shri Himatsingka (West Bengal) **:** What I would suggest to the Hon. Minister of Law is this. Would he please take steps to have all the laws that are in force printed in a book form so that one may follow what laws are in existence and what not? At present it is so very difficult. We are passing so many laws in a day that it is very difficult for anyone to know or find out what the law is. Therefore, will he take my suggestion into consideration and have the laws in force up to 1949 printed ?

Dr. Ambedkar : That is being done.

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*P. D., Vol. 4, Part II, 11th April 1950, p. 2776.

Mr. Deputy Speaker : The question is:

"That the Bill to repeal certain enactments and to amend certain other enactments, be taken into consideration."

The motion was adopted.

Clauses 1 to 4 were aded to the Bill.

The First and Second Schedules were added to the Bill.

The Title and the Enacting Formula were added to the Bill

Dr. Ambedkar : I beg to move:

"That the Bill be passed"

Mr. Deputy Speaker : The question is:

"That the Bill be passed."

The motion was adopted.

(16)

REPRESENTATION OF THE PEOPLE BILL

[MR. SPEAKER *in the Chair*]

***The Minister of Law (Dr. Ambedkar):** May I, Sir, with your permission make the motion that stands in my name in the Order Paper for today ? I could not do it this morning because printed copies of the Bill were not available in the morning. As the House takes objection to giving leave for introduction without copies of the Bill being there, I thought I should wait.

Mr. Speaker : Yes ; he may make that motion. I was told that the matter was not to be taken up. That is why I passed over that.

Dr. Ambedkar : Because, I said that printed copies were not available.

I beg to move for leave to introduce a Bill to provide for the allocation of seats in, and the delimitation of constituencies for the purpose of election to, the House of the People and the Legislatures of States, the qualification of voters at such elections, the preparation of electoral rolls and matters connected therewith.

Mr. Speaker : The question is :

> "That leave be granted to introduce a Bill to provide for the allocation of seats in, and the delimination of constituencies for the purpose of elections to, the House of the People and the Legislatures of States, the qualification of voters at such elections, the preparation of electoral rolls, and matters connected therewith."

The motion was adopted.

Dr. Ambedkar : I introduce the Bill.

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*P. D., Vol. 4, Part II, 12th April 1950, pp. 2797-98.

REPRESENTATION OF THE PEOPLE BILL—*contd.*

***The Minister of State for Transport and Railways (Shri Santhanam):** I beg to move:

> "That the Bill to provide for the allocation of seats in, and the delimitation of constituencies for the purpose of elections to, the House of the People and the Legislatures of States, the qualifications of voters at such elections, the preparation of electoral rolls, and matters connected therewith, be taken into consideration."

I do not propose to speak at this stage. By the end of the discussion I expect the Minister in charge will be present and he will then reply. If he is not present then I shall reply to the debate.

Mr. Deputy Speaker : Motion moved.

Shri Bharati (Madras)**:** This is a very important Bill and may I suggest that it would help the discussion to a very great extent if the Hon. Minister in charge of the Bill elucidated certain points which are very necessary, so that we may not traverse unnecessary ground. The Hon. Minister, Dr. Ambedkar, has just come to the House. It was only because he was not here that Hon. Mr. Santhanam made the formal motion. If Dr. Ambedkar had been here he would certainly have made a very useful speech. I am prepared to speak after the Hon. Dr. Ambedkar has sopken. However, I leave it to the House.

The Minister of Law (Dr. Ambedkar): Sir, at the outset I must apologise to the House for my delay in reaching the House. I was told that the Insurance Bill would not be finished before 4-30 p.m. and that a message would be sent to me in my room .....

Shri Kamath (Madhya Pradesh)**:** There are always surprises in life.

Dr. Ambedkar : With regard to this Bill it is obvious that the Bill deals with four questions. Firstly, it deals with the allocation of seats for the House of the People among the different States. Secondly, it deals with the fixing of the total seats for the State Legislative Assembly. Thirdly, it deals with

*P.D., Vol. 4, Part II, 18th April 1950, pp. 3000-6.

the questions relating to the registration of voters for election to Parliament and election to State Assemblies. And fourthly, the Bill proposes to fix the composition of the State Legislative Councils and the registration of voters for the Councils. I propose to take each of these points and explain to the House what exactly the Bill does.

First I propose to explain to the House the question of the allocation of Parliamentary seats among the States. The allocation proposed by the Bill is shown in the First Schedule. The House will recall that the Constitution lays down in article 81 the rules which have to be observed in the matter of distributing seats in Parliament among the different States. The rules to which I made reference are laid down in article 81(1)(b) and 81(1)(c). The first rule which this article lays down is that the constituency shall be so determined that there shall be not less than one member for every 750,000 and not more than one for every 500,000 of the population. The second rule which this article lays down is that whatever standard figure is chosen between these two figures—the maximum and minimum—that standard figure, so far as the States in Parts A and B are concerned, shall be uniform throughout the territory of India. That is the general direction given by the Constitution which this Bill is bound to conform to.

The standard figure adopted in this Bill for the purpose of allocating seats is one Member for every 720,000. It will be seen that this figure is in between 750,000 and 500,000. The seats for the different States are arrived at by dividing the total population of each State by this standard figure of 720,000 and you get the total number of seats for each State set out in the First Schedule to this Bill. The total population is as estimated on the 1st March 1950 according to the order issued by the President under the appropriate article of the Constitution. I believe it is article 347 .....

Shri Bharati : Article 387.

Dr. Ambedkar : I believe hon. Members have got the notification issued by the President in which the population of the various States as estimated has been shown .....

Shri Bharati : We have not a copy of it. When was it issued ?

Dr. Ambedkar : It was issued on the 17th April 1950.

Shri Bharati : That was yesterday. We have not been supplied with a copy.

Dr. Ambedkar : I am very sorry. It is in the Gazette. We are in such a great hurry that long intervals are not permissible.

Dr. Deshmukh (Madhya Pradesh)**:** Sir, the figures of population are essential for the Debate.

Dr. Ambedkar : I think they will be circulated. However, I shall read them out.

Part A States

Assam	...	...	8.51	million
Bihar	...	...	39.42	”
Bombay	...	...	32.68	”
Madhya Pradesh	...	...	20.92	”
Madras	...	...	54.29	”
Orissa	...	...	14.41	”
Punjab	...	...	12.61	”
U.P.	...	...	61.62	”
West Bengal	...	...	24.32	”

I do not think I need trouble the House with the population figures for States in Part B and Part C.

Shri Raj Bahadur (Rajasthan)**:** We want them.

Dr. Ambedkar : Then I will read them out.

Part B States

Hyderabad	...	...	17.69	million
Jammu and Kashmir	...	...	4.37	”
Madhya Bharat	...	...	7.87	”
Mysore	...	...	8.06	”
Patiala and East Punjab States Union			3.32	”
Rajasthan	...	...	14.69	”
Saurashtra	...	...	3.96	”
Travancore-Cochin		...	8.58	”

Part C States

Ajmer	...	...	0.73	million
Bhopal	...	...	0.85	”
Bilaspur	...	...	0.13	”
Coorg	...	...	0.17	”
Delhi	...	...	1.51	”
Himachal Pradesh		...	1.08	”
Cutch	...	...	0.55	”
Manipur	...	...	0.54	”
Tripura	...	...	0.58	”
Vindhya Pradesh		...	3.88	”

That is the population as calculated on the 1st March 1950.

Shri Kamath : What about the Andaman and Nicobar Islands ?

Dr. Ambedkar : I have not got the figures here, and they do not form part of this scheme.

Shri Bharati : Is any Member given to Aandamans in the Schedule ?

Dr. Ambedkar : Yes, but that is a separate thing altogether. I am coming to that.

I have given to the House the total population of the States in Part A, Part B and also in Part C.

Dr. Tek Chand (Punjab)**:** Are these based on the census of 1941?

Dr. Ambedkar : They have been calculated for the purpose of this Schedule by the Census Commissioner who must be taken to be the final authority in this matter ; he has advised the Election Commissioner that these should be the standard figures that may be taken as the basis.

Dr. Tek Chand : How have they been calculated ?

Dr. Ambedkar : It is a very difficult thing to say now. They have been calculated in the manner prescribed in the Constitution (Determination of Population) Order, 1950, and the President has accepted them.

As I said, the First Schedule refers to the House of the People. The seats for the States in Part A and Part B have been calculated on the basis of one Member for every 720,000 of the population. With regard to Part C, hon. Members will remember that the determination of the seats for States in Part C is set out in article 82. That article 82 practically leaves it to Parliament to decide it in the best manner it can without being bound by the two rules which have been laid down in article 81. Consequently, really speaking, this standard figure of 720,000 could not be made the basis for the allocation of seats to States in Part C because on that basis most of those States will not even get a single seat in Parliament. Consequently, what has been done is that they have been just given one seat for the purpose of securing their representation in Parliament without being bound down by any of the rules that have been laid down for States in Part A and Part B.

Shri Syamnandan Sahaya (Bihar)**:** But in cases where there is more than one seat ?

Dr. Ambedkar: I am coming to that. With regard to Delhi an exception has been made, namely, that Delhi has been given three seats.

Shri Raj Bahadur: Why was this exception made ?

Shri Bharati: Because it is the Capital.

Dr. Ambedkar : One of the reasons is that Delhi has quite a big population as compared to the other States listed in Part C. The basis we have taken with regard Delhi is one seat for every 500,000 of the population, and therefore Delhi will have three seats.

Capt. A. P. Singh (Vindhya Pradesh)**:** Why has this standard of 500,000 not been taken as a basis in the case of Vindhya Pradesh ? Vindhya Pradesh has been given only five seats.

Dr. Ambedkar: Vindhya Pradesh has a big population. What I say is this, that we are trying to upgrade where upgradation is necessary ; we are not trying to upgrade where

on the population basis a State is getting representation ; and we are upgrading a great deal where a State is not getting any representation at all. It has really got to be done by equitable consideration and not by logic and not necessarily by population.

Then I come to Kashmir. As the House will see, there is a special provision with regard to Kashmir and that provision differs in one important respect and that is that the Kashmir representatives will not be elected by the people. Now, the reason for making an exception in regard to Kashmir is this, namely, that Kashmir is a part of India in a very attenuated manner, so to say. The Article relating to Kashmir says that only Article 1 applies, that is to say, Kashmir is part of the territories of India. The application of the other provisions of the Constitution, that Article says, will depend upon the President, who may in consultation with the Government of Kashmir apply the rest of the Articles with such modifications and alterations as he may determine. As the honourable House may probably know, there has been already issued an order in regard to Kashmir in which the President has modified the Article providing for the representation of States in Parliament by stating that he shall nominate the represntatives of Kashmir in consultation with the Government of Kashmir. I think it was issued on the 26th January. That being so, there is really no room for this Parliament to make any provision with regard to the representation of Kashmir in Parliament in a manner different from what has been provided in the Bill. I think that nothing more is necessary for the purpose of elucidating how the First Schedule has been brought into being.

I now come to the fixation of the total seats in the State Legislative Assemblies as has been shown in the Second Schedule. With regard to this matter also, we have had to conform to the provisions of Article 170. That Article lays down two rules. One rule is that there should be not more than one seat for every 75,000 of the population. The second rule is that the maximum number of seats of a State Legislative Assembly shall be 500 and the minimum shall be 60. In framing the Second Schedule, the following considerations

have been taken into account. The first consideration is that the total number of seats in any Legislative Assembly is not unduly large. The second consideration is that the total number of seats fixed for each State Legislative Assembly is an integral multiple of the State quota in Parliament. The reason for adopting this second rule that the one should form a sort of integral multiple of the other is because by doing so it would be easy to work out the provisions of Article 55. Hon. Members will appreciate that Article 55 provides that notwithstanding the fact that the total membership of the different Legislative Assemblies in the States may be different there shall be equal valuation of the votes cast in the Presidential election. Now, it is quite obvious that this equal valuation would become easier of calculation if we had the total seats in the Legislative Assembly of any State forming an integral multiple of the number of seats for that State in Parliament. That is why the seats have been allotted accordingly. It is, of course, to be remembered that the multiple is not the same in all the cases but the multiple is there. That is how the seats in the Second Schedule have been calculated.

Shri Syamnandan Sahaya : Therefore, the State Assemblies have different numbers in different States. It is unlike the Parliament where you have a fixed number.

Dr. Ambedkar : Yes. The maximum is 500 and the minimum is 60, but different numbers may be fixed for different States. There is no uniformity prescribed in the Constitution. We have a wide limit within which we can fix different totals for different States.

Shri Syamnandan Sahaya : Could we know what is the basis in the different States ? Say 100,000 voters per seat in Assam; 110,000 in Bihar; 120,000 in U.P. and so on?

Dr. Ambedkar : After I finish my speech, if you put that point clearly to me, I shall be able to explain. So much for the fixation of seats in Parliament and in the Legislative Assemblies of the different States.

Now, I come to registration of voters. The principles adopted for registration of voters for Parliamentary constituencies as

well as for State Legislative Assembly constituencies are the same. There is no difference. Consequently, I think that it would be enough if I explain the provisions relating to registration of voters for Parliamentary constituencies. The first principle is what is laid down in Clause 15 of the Bill which says that every constituency is to have an electoral roll on the basis of which election will be conducted. The preparation of an electoral roll is therefore an obligatory thing and a condition precedent for election. The second principle is that for being registered on an electoral roll a person should not suffer from the disqualifications mentioned in Clause 16. He should not be a person who is not a citizen of India; or a person who is of unsound mind or a person who is guilty of offences relating to corrupt practices and election offences, then, he becomes eligible for being enrolled or registered in that constituency. The next principle is that a voter can be registered and that, in one and not more than one constituency. Even in one constituency he is to be registered only once. Then we have what are called "conditions of registration", which are laid down in Clause 19. One is that he must be ordinarily resident for not less than 180 days during what is called a "qualifying period". Secondly, he must not be less than twenty-one years of age on the qualifying date.

Now, with regard to qualifying date and qualifying period, I think it is necessary that I should make the position a little clearer. On reading the Bill, the House will realise that there are really two different provisions for qualifying period and qualifying date. There is one qualifying period and one qualifying date for the first electoral roll, and there is another provision for qualifying period and qualifying date for subsequent electoral rolls.

Now, for the first electoral roll the qualifying period is from 1st April 1947 to 31st March 1948. The qualifying date for the first electoral roll is the first day of January 1949. Now, these provisions which I have referred to with regard to the qualifying period and the qualifying date for the first electoral roll are really, so to say, beyond our control now, because they were fixed by the Constituent Assembly when it passed a resolution that the election should take place at a certain

period in the year 1950 and so on, and that accordingly preparation should be made for the registration of voters, and preparation of electoral roll. Now so much work has been done under the authority of the Resolution passed by the Constituent Assembly that it is not possible for us to make any change in the basis which was laid down by the Constitutent Assembly. But with regard to the subsequent electoral roll we have said that the qualifying period shall be the calendar year immediately preceding the first of March in each year and the qualifying date shall be 1st March in each year.

Now with regard to the residential qualification, about which I know there has been a great deal of perturbance in the minds of Members, I should like to draw the attention of the House to clause 20 of the Bill which defines what is called "ordinarily resident". I would not at this stage enter into any further discussion of the matter, but if a point is raised I shall be glad to give further explanation. In this very clause provision has been made to define or to specify what would be the constituency of any particular person employed in the armed forces.

My attention is drawn to the fact that there is no provision made with regard to persons who have to change their residence by reason of the fact that they are serving in the State and the State either transfers them permanently from one area to another or sends them out of the country. It is perhaps necessary to make a provision to cover cases of this sort and I propose to move an amendment to add a sub-clause to clause 20 to deal with cases of this sort.

Now there is one other provision with regard to the preparation of the electoral roll to which I would like to draw the attention of hon. Members. The first is this : that the existing roll which will now be prepared will be operative till the 30th of September 1952, that is to say, if any election takes place up to the 30th of September 1952 the electoral roll that would now be prepared will be regarded as operative, although it is probably a stale one — but there is no help to that. Subsequent electoral rolls however would be prepared every year and that will be seen from clauses 23 and 24. This

point is important because it is generally agreed that an electoral roll should not be older than, say, for instance, six months, or three months from the date on which election takes place. Under the old English law there was a provision that electoral rolls should be prepared every six months. But they themselves found that this provision was so costly that they have now extended this period to twelve months. It is felt by the Government of India that in a vast electorate which we are likely to have under adult suffrage system, the cost of two revisions in one year would be enormous and consequently we have adopted the modest procedure of having only annual revisions of the electoral rolls. As I stated, these rules which apply to the electoral roll in Parliamentary constituencies are also made applicable to the preparation of electoral rolls, to the State Legislative Assemblies and to the State Councils and, therefore, I need not refer to them here at all.

Then I come to the last part of the Bill which deals with the composition of the Upper Chambers in the provinces, hon. Members will remember that there was a considerable division of opinion as to whether there should be second chambers in the provinces or not. The Constituent Assembly left this matter to the choice of the representatives of the various provincial assemblies in the Constituent Assembly to decide for themselves as to whether they should have or should not have second chambers. Some Members decided that there should be upper chambers for their provinces and others decided to the contrary. Consequently, the Constitution makes provision for the upper chamber for those provinces or those States where their representatives agreed to have such upper chambers. Now the Constitution also lays down how the upper chamber is to be constituted—that will be found in article 171. There again, much of the composition of the upper chambers has really been laid down by the Constitution itself. It says that the maximum of total membership shall not exceed one-fourth of the total of the Lower House and the minimum shall not be less than forty.

That is one priniciple that is laid down in article 171. The other principle that is laid down is that about the distribution

of the seats among the various constituent elements from which the Upper House is to be drawn. For instance, one-third are to be elected by municipalities, district boards and such other local bodies in the State as Parliament may by law specify. Further, one-twelfth are to be elected by persons residing in the State who have been at least three years graduates : then one-twelfth to be elected by teachers in educational institutions recognised by the State ; one-third by the Legislative Assembly itself; and the remainder to be nominated by the Governor amongst certain classes of persons who have been specified in clause (5) of article 171. Consequently very little really remains for Parliament to do. As a matter of fact, what remains for Parliament to do is to define what are the other local bodies which are to be selected for the purpose or being constituencies to send Members to this upper chamber. The second thing that is left to be defined is the equivalent of a graduate. When one is graduate of a University no question arises ; but there may be others who have not gone to the Universities and may have equivalent qualifications. What is that equivalent also remains to be determined. Thirdly, we have to define what is an educational institution which would qualify a teacher for being elector and also prescribe the registration of voters.

The local bodies other than municipalties and district boards which are to participate in the elections are set down in the Fourth Schedule which hon. Members will find on page 10. This Schedule has been prepared in consultation with the various State Governments. Hon. Members will see that in all cases municipalties and district boards have been specified. In fact, we cannot go against that provision which is in the Constitution. It is only with regard to other bodies mentioned therein under each State that any question or argument can arise whether that particular body should or should not be included under the head "local authority"

With regard to the question of finding the equivalent of a graduate and defining an educational institution which would qualify a teacher to vote, it is felt that the best thing

is that this matter should be left to be determined by the State Government in concurrence with the Election Commission. I do not think it would be possible for us right now or for the Centre to define for each particular State which person should be treated as a graduate although as a matter of fact in technical terms he is not a graduate.

Shri A. P. Jain (Uttar Pradesh) **:** May I ask a question ? Will you recognize a person as a graduate under this law who is recognized by a State Public Service Commission or the Union Public Service Commission as a graduate ?

Dr. Ambedkar : The point is this that under the Constitution all electoral matters are really the concern of the Election Commission and if the Election Commission seeks the advice of the Public Service Commission or any other body in order that it may come to the right conclusion there will be nothing to prevent it from doing that. But the final authority will be that of the State Government in concurrence with the Election Commission.

I do not think that there is any other point that requires to be elucidated. These are the general provisions of the Bill and I hope that the House will find that they are the most suitable under the circumstances.

Shri R. K. Chaudhuri (Assam) **:** What about the displaced persons who have come to India now ?

Dr. Ambedkar : If you are raising the point I will explain it now. We have provided, as you will see in clause 20(6), that anybody who has come to India before the 25th July, 1949 will be entitled to be registered as a voter in the constituency in which he resided on that date or in any other constituency which he may specify to be his constituency.

Shri Tyagi (Uttar Pradesh) **:** What about those who are coming now, in 1950 ?

Dr. Ambedkar : That we cannot do, because under our Constitution a voter is required to be a citizen, and our citizenship clause defines citizenship as on the commencement. Unless we have a new citizenship law to regulate the position

those who have come after that date I am afraid they will have to go without the franchise. There is no help.

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* **Shri M. A. Ayyangar :** ..... What I suggest, therefore, is that though formally a motion for reference to Select Committee has not been moved, we may sit around a table and consider whatever amendments have been suggested on their merits and incorporate them if necessary. We may adjourn and continue the proceedings tomorrow.

The Minister of Law (Dr. Ambedkar) : May I explain a few things, Sir ? May I intervene in the debate to deal with this point about the Select Committee ?

Mr. Speaker : Yes. I am not in touch with what happened during my absence from the Chair, but I have got a sufficiently fair idea of it from what the Hon. Deputy Speaker has said and from the reception of what he said just now.

So, one could appreciate the demand for a Select Committee which means only an earnest and a pressing request for a quiet consideration of all the various provisions. That is what it really comes to.

Dr. Ambedkar : There is no motion for a Select Committee.

** **Shri Santhanam :** The Select Committee may consist of a fairly large number thirty or forty, of those people who are very keenly interested and who want to press certain amendments. Tomorrow we can discuss the Select Committee proposals.

Mr. Speaker : Whether it is a formal, technical, Select Committee or an informal meeting of thirty, forty or fifty Members who want to have their full say in the matter, all that I am keen about is that, everybody should as far as possible be given an opportunity to express his own views and the difficulties he might be feeling. If that is done I think

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* P.D. Vol. 4, Part II, 19th April 1950, p. 3051.

** *Ibid,* pp. 3052-54.

our object wil be served. I think we may adjourn just now and meet tomorrow at about 2-30.

Dr. Ambedkar : Sir, I think it is desirable that I should state to the House exactly what a Select Committee will be able to do and what it will not be able to do. I think it will be wrong on my part to agree to any such motion leaving the House in darkness as to what is possible to be done by a Select Committee and what is not possible. I think my remarks might also enable the House to decide whether in view of the points that may remain open for discussion it is desirable to have a Select Committee.

The first thing I am quite certain about is that the Select Committee will not be able to alter the provisions regarding qualifying period and qualifying date. I am quite certain in my mind that however desirable it may be, it would not be possible to do so, for the simple reason that we had taken a decision in the Constituent Assembly, as every Member of this House will remember, that the elections will take place at a certain time, and under that Resolution directions were issued to various States to prepare their electoral rolls. Most Members of the House must have noticed a statement which was recently published in the *Statesman* or the *Hindustan Times* stating the progress which the various States have made in the matter of the preparation of the electoral rolls. Now, those electoral rolls prepared by the various States were made on the basis of the qualifying period and the qualifying date.

Obviously, unless the House comes to the conclusion that the labours which have been devoted by the various States to the preparation of the electoral roll ought to be thrown overboard (*Shri Sondhi* : Who says that?) and that we should in this Bill fix a qualifying date and a qualifying period which would be much nearer the preparation of the electoral roll than the existing ones have been, it seems to me absolutley clear that it would not be possible for the Select Committee or for me to accept a new qualifying date and a new qualifying period.

Shri Sondhi : Can we not have supplementary lists ?

Dr. Ambedkar : This question was put to me in the morning. I was asked as to what would happen to those who come of age, that is to say, who become twenty one, after the present qualifying date.

Shri Sondhi : What about those who have been left out ?

Dr. Ambedkar : I am conscious of all that I have been saying. Please let me go on.

I had the matter examined by the Election Commissioner and my Ministry. The question is as to how much labour would be involved in the preparation of the supplementary electoral roll which would contain the names of persons who have come of age after the qualifying date that we have fixed. I am told that the number would be quite enormous. It would involve new work. We would have to have new machinery in addition to the one that would be necessary to revise the rolls that have already been prepared. This additional burden would certainly have the effect of postponing the target dates for certain stages that we have fixed. Therefore, unless this House is prepared to accept the proposition that there need be no cancellation on the date mentioned by the Prime Minister, it would not be possible to undertake this piece of work. I want to make that point quite clear. Unless the Select Committee is prepared to take the responsibility of recommending to Government that the work that has already been done be thrown overboard and be deemed to be of no value and that additional work be taken up notwithstanding the cost and the impossibility of providing additional material, my submission to the House is that the Select Committee cannot alter these provisions.

What are the other provisions in this Bill? The other provisions are only two. They are urgent matters and I have not seen any hon. Member making any kind of reference to them. One clause which is important and about which I myself feel that the Bill might do something more is with regard to delimitation of constituencies. Except one hon. Member, nobody had realized ……..

Some Hon. Members : We have not spoken as yet.

Dr. Ambedkar : Notwithstanding the fact that so much heat and so much vehemence have been introduced in this debate .....

Shri Sondhi : You will have more of it.

Shri Kamath : You are adding to it.

Mr. Speaker : Order, order. Let him go on.

Dr. Ambedkar : In the Constitution, there is a provision that delimitation shall be undertaken by Parliament. That is there. In this Bill, what we have proposed is that this power which belongs to Parliament may be delegated to the President, and the President may, by order, prescribe what the constituencies are. It may be contended—and very rightly too—that this matter ought not to be left to the President but that this Parliament should engage itself in looking into every constituency that may be framed for the purpose of both the elections to the Parliament and to the State Legislatures. I do not deny the right, but the question is whether Parliament can and will be able to find the enormous time that will be necessary for scrutinising every constituency both for the Parliament and for the State Legislatures.

Dr. Deshmukh : That is not the only course.

Dr. Ambedkar : Please let me go on.

Therefore, in this particular clause 13, the provision is made that although the President may, by order, prescribe and delimit constituencies he shall be bound to place the order of delimitation before the House. I may frankly state that even I am not satisfied with this provision, because I want Parliament to have a look into it. But nobody has suggested this. (*Interruption*). This is one point which the Select Committee may look into, I agree. But why go to the Select Committee for this kind of thing ? I have a solution. I have two alternatives. One is that clause 12 may be so amended that we can add that the order of delimitation made by the President should be placed before Parliament and if Parliament

does not make any alteration in it, then within a prescribed period it should become final. That is one alternative. The other alternative which I am prepared to propose is that when delimitation is undertaken, whoever delimits, there shall be associated with him a Committee composed of Members of this House or of the local State Legislature who are concerned with that particular constituency, so that they may be in a position to give their advice and their judgment to the officer who is engaged in delimitation. (*Shri Tyagi* : That is a good idea.) If the House is agreeable to that, there is no need to refer this Bill to a Select Committee at all.

Then, Sir, the other point that remains in the Bill is this. I do not think that I am accusing anybody in saying what I do, namely, that a large part of the heat and vehemence and the general plausible argument that have been engendered have been intended merely to cover a very small point, namely, that most hon. Members are interested in having the number of seats in the State Legislatures increased, but they have not had the courage to say so, except one or two. If hon. Members are only interested in this little point that the number for the U.P. should be increased by 15 or that the one for Mysore should be increased by 1 or that the one for Delhi should be increased by 2, I want to ask whether it is not a matter which we can deal with in this House ? Why bother with a Select Committee ?

Shri Bhatt : You cannot deal with all the details.

Dr. Ambedkar : There are no details. I am myself moving certain amendment changing the figures in the total representation of the various States. If my hon. friends think that I am very miser and meagre and that I am not meeting their demands, well, they can move their amendments right here and the House may decide whether the figure that I suggest is the right figure or whether the figure that they suggest is the right figure. Why send it to the Select Committee ? Where is any other thing in this Bill, I want to know, which the Select Committee can deal with? This is a routine Bill.

My hon. Friend Mr. Hossain Imam said that there were certain matters which were not included in this Bill. I think that he forgot what I had stated when I made my observation on the introduction of this Bill. I had stated then that this Bill deals with only one aspect of the election. The conduct of election as such is quite a different matter and will be dealt with by another Bill. Consequently, all those matters which appear to be absent here are not going to remain absent, because the elections cannot be completed and carried on unless the complementary part of the legislation is also put through. Therefore, my submission is that although there is no motion—and you said that a motion can very well be manufactured if one is wanted ;—quite true that it can be—but is there any necessity ? That is the point which I want the House to consider. These are the three points and I have the amendments ready with me.

REPRESENTATION OF THE PEOPLE BILL—*concld.*

*** Mr. Speaker :** The House was proceeding yesterday with the consideration of the following motion :

> "That the Bill to provide for the allocation of seats in, and the delimitation of constituencies for the purpose of elections to, the House of the People and the Legislatures of States, the qualifications of voters at such elections, the preparation of electoral rolls, and matters connected therewith, be taken into consideration."

Shri Syamnandan Sahaya : .....Now that the Law Minister is here I hope he will place before you the facts as transpired this morning and then we may proceed to consider the Bill clause by clause.

The Minister of Law (Dr. Ambedkar) : I am sorry, Sir, that I was late. At your suggestion there was a meeting held this morning under the chairmanship of the Deputy Speaker of such Members of the House as were interested in this Bill and I am glad to say that we have unanimously accepted certain amendments to this Bill which I propose to move with your permission. I hope that there will be no further controversy or debate on the subject.

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* P.D. Vol. 4, Part II, 20th April 1950, pp. 3057-58.

Shri Tyagi (Uttar Pradesh) **:** I have not been accommodated. I agree with the amendments, but my points have not been accommodated and my amendment has not been accepted. Therefore, it was not 'unanimous'.

Mr. Speaker : Whatever the reasons, the conclusion seems to be unanimous. I shall put the conisderation motion to the House and then we can take the Bill clause by clause. I must congratulate the Members on the very happy end that has been brought about. The question is :

> "That the Bill to provide for the allocation of seats in, and the delimitation of constituencies for the purpose of elections to, the House of the People and the Legislatures of States, the qualifications of voters at such elections, the preparation of electoral rolls, and matters connected therewith, be taken into consideration."

The motion was adopted.

Mr. Speaker : We may now proceed with the Bill clause by clause.

Dr. Ambedkar : There is an amendment to clause 13 and I would therefore like that clause to be held over because the amendment is being typed.

Mr. Speaker : All right, I take it generally that the previous amendments tabled by hon. Members are all scrapped.

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* **Dr. Tek Chand** (Punjab) **:** Unfortunately we have not seen the wording of the amendments in respect of what we decided in the morning. There was only a general talk. And with regard to some of the clauses, for instance with regard to clause 6, there is still a great deal of controversy and there is no unanimity.

Dr. Ambedkar : There is no controversy.

Mr. Speaker : I do not at all want to exclude any amendment tabled. I was trying to clarify the position so that if there are no amendments I shall take those clauses together.

Dr. Tek Chand : What are the new amendments ? Let us see them. Nobody has seen them. Without seeing them how can we pass them?

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*P. D., Vol. 4, Part II, 20th April 1950, p. 3058.

Dr. Ambedkar : I will read them.

Mr, Speaker : Has the hon. Member, Dr. Tek Chand, any amendments to move?

Dr. Tek Chand : We have sent an amendment to clause 6.

Clauses 2 to 5

Mr. Speaker : Is any hon. Member desirous of moving any amendment to any of the clauses 2 to 5 ?

Some hon. Members : None.

Clauses 2 to 5 were added to the Bill.

***Shri Buragohain** (Assam) **:** May I submit before the Hon. Minister replies .....

Dr. Ambedkar : I do not want any suggestions.

Mr. Speaker : The better course will be to know the reactions of the Law Minister.

Shri Buragohain : Sir, the case of the Tribals of Assam stands on a different footing. I have to .....

Mr. Speaker : The better course will be to hear the Hon. Minister first. Do the hon. Members want me to place this amendment at this stage, or shall I place it later ? All right, I shall place it later.

Dr. Ambedkar : I regret very much that I cannot accept either of the amendments moved by Mr. Jain or by Mr. J. R. Kapoor. But, I do want to remove any kind of suspicion that there might be in the mind of Mr. Jain or Mr. Kapoor or of any other Member of Parliament. It seems to me that they are under a misapprehension that by clause 6 Parliament is going to be completely deprived of the right to determine what should be the nature of the constituency : whether it should be single-member constituency or plural member constituency; what should be the method of voting,

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* P. D., Vol. 4, Part II, 20th April 1950, p. 3062.

whether it should be distributive voting or one man one vote or cumulative voting or any other system. I have not the slightest intention to deprive Parliament of its right to have its determination upon that subject. In fact, as I said in my opening speech yesterday and according to the statement made yesterday by the Prime Minister, this Bill is not a complete Bill itself. This Bill is to be followed by another Bill which may be either called Conduct of Elections Bill or the Electoral Bill. In that Bill, matters relating to the constituencies, qualifications and disqualifications of candidates and matters relating to the voting system will be dealt with and it will be undoubtedly within the competence of Parliament to come to a decision when that Bill is placed before the House, as to what sort of system of constituency and voting they approve of. Therefore, there is no desire at all to oust the jurisdiction of Parliament at all. On the other hand, as my hon. friends will remember, I myself am anxious that at every stage in the delimitation of constituencies, Parliament should be associated. As they know, I am making a provision in clause 13 that not only will the order of delimitation be placed before Parliament as an information, but also I am going to move an amendment that Parliament should have the right to make suggestions and modifications as it likes provided it wishes to do so within a stated priod of ten days or so. In addition to that, there is also going to be an amendment empowering the Speaker to appoint Committees of this House to be associated with the work of delimiting constituencies, the members to be drawn from that particular area. Having regard to the statement which I have made, I think it is clear that I have not the slightest desire to oust the jurisdiction of Parliament. I am providing for placing the Order of delimitation on the Table of the House with the right of the House to make any changes they may like and in addition there is a further provision that the Speaker will have the right to appoint Committees to be associated with the work of delimitation. I do not think that any Member have any doubt that we have the fullest desire to have Parliament's decision on this matter. The only thing is that this Bill

happens to come first when, as a matter of fact, that Bill might have come first. The point is that clause 6 of this Bill which provides for delimitation will certainly not come into operation until that other Bill has been passed. It is obviously so, because, we are now, as you know, amending section 21 providing for a supplementary electoral roll which itself will take a pretty long time and give us sufficient opportunity to place that Bill before Parliament.

Shri Sondhi : Why not delete the clause when it is not to come into operation.

Dr. Ambedkar : It should not be deleted.

***Shri Kesava Rao** (Madras) **:** I have a little doubt regarding sub-clause (*b*) of clause 6. I am afraid the seats reserved for scheduled castes and scheduled tribes will be determined by the President after consultation with the Election Commission. I am doubtful that the total number reserved is not stated anywhere. Even in the Parliament and in the Constituent Assembly it was many times stated that the number should be fixed.

Dr. Ambedkar : It is there in the Constitution according to the population. All that is necessary is to know the population. As regards delimitation I have my own doubts .....

Mr. Speaker : Let not the hon. Member go into administrative details. All that the House can do is to decide the principles, leaving it to the authorities concerned to work them out in practice. But, I myself was feeling one doubt about Mr. A. P. Jain's amendment and what was said by Pandit Thakur Das Bhargava. I am not conversant with the discussions in the Constituent Assembly nor with the discussions at the informal meeting this morning. As I understand it, all that the Members are anxious about is that, before any constituencies are fixed or delimitation is effected, this House must have an opportunity of examining it and expressing its views on that; because, it is not possible to have all these

* P. D, Vol. 4, Part II, 20th April 1950, pp. 3064-65.

constituencies mentioned as an appendix or a schedule to an Act that the House might pass. As has been rightly pointed by Mr. Krishnamachari, all that the law is expected to do is to make a "provision" for such and such a thing. That does not necessarily mean that all the details must be settled here, in the House. The House may prescribe the legal machinery by which a certain thing can be done. My difficulty is that, I am not able fully to understand the point of view of those who object. The object of the House seems to be to have an opportunity to express its views. After all, any Bill that comes before the House even in the manner in which the hon. Member has suggested would be prepared by the executive and will come in a ready and cut and dried form. I see that Dr. Ambedkar proposes to move an amendment to clause 13, and hon. Members will note that according to that amendment, whatever is done by the President is subject to such modifications as the Parliament may make. It is, therefore, clear that whatever orders are passed are coming again before the House for its scrutiny and the Parliament will have a statutory right of suggesting modifications. It will not be a matter for which Governement may or may not find time, according to their sweet will. If any modification is suggested by any Member, that modification must come before the House and Government must find time for it.

Dr. Ambedkar : If you will permit me, Sit, I am going a step further. The Parliament cannot merely do this postmortem, so to say, at the fag end but what I am saying is that I shall bring in a Bill in which all these matters will be dealt with by law and Parliament will have an opportunity to express its opinion upon it. It is a much greater opportunity that I am proposing. Not having considered this matter properly and thorougly I am not in a position to commit myself one way or the other. But whatever the system of the electorate, whatever the basis of voting, whatever the qualifications or disqualifications of the candidates, all those matters will be dealt with by a Bill which Government will bring forward here long before the operation of clauses 5 and 6 will come about……..

Mr. Speaker : Apart from that I was also pointing out that the House having got the right .....

Dr. Ambedkar : That is in addition to what the House will do. I am doing something further than that. I am now introducing an amendment to clause 13 to enable you to appoint committees to work with the Election Commissioner in the matter of the determination of the constituencies. The further provision that I am making is this: that the constituencies as will be set out in the order will be as recommended by that Committee and not by the Election Commission. I am cutting out by an amendment the Election Commission. I am giving the Committee the direct authority to do it.

Shri Kamath (Madhya Pradesh) **:** Will the Committee be appointed or elected ?

Dr. Ambedkar : In such manner as the Speaker may determine.

Pandit Thakur Das Bhargava : It may be that the Committee and the Election Commission may decide in regard to each State differently and may not arrive at a common basis.

Dr. Ambedkar : As I said just now, I will bring in a Bill to determine these matters and when the Bill is passed, whatever law or whatever provision is made will be applied uniformly throughout India or differently in different States as Parliament chooses.

***Dr. Ambedkar :** I stand by the assurance that I have given that there will be a Bill. It will deal with both the aspects : (1) the nature of the constituencies—whether they are to be single-member or plural-member; and (2) what should be the system of voting. As I said, we shall also deal with the candidate, his qualifications and disqualifications. I have no desire in any way to take away the power of

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* P. D., Vol. 4, Part II, 20th April 1950, pp. 3068-71.

Parliament and if I may say so with all respect, I disagree with my hon. friend Mr. Santhanam who said that this was a matter entirely to be relegated to the Election Commission. The Election Commission is there merely to control and supervise the elections, but the delimitation of constituencies is a matter for Parliament.

Mr. Speaker : Does Mr. Jain want me to put his amendment to the House ?

Shri A. P. Jain : I just want ot say a few words.

Mr. Speaker : I think we have had enough discussion. It will be a wrong procedure if I allow a person to speak over and over again on the same amendment. If he wishes me to put his amendment before the House, I shall do so.

Shri A. P. Jain : No, Sir, I do not want it to be put to the vote of the House.

Shri J. R. Kapoor : In view of the assurance given by the Law Minister, I do not wish mine also to be placed before the House.

Dr. Ambedkar : Sir, I have an amendment to clause 6. I beg to move :

"In sub-clasue (2), omit 'after consulting the Election Commission'."

So that the House will understand its significance, I shall read Clause 13. I have proposed an amendment to clause 13, which reads thus :

For existing clause, substitute :

"13, *Procedure for making orders under sections 6, 9 and 11.*—

(1) As soon as may be after the commencement of this Act, there shall be set up by the Speaker—

(*a*) in respect of each Part A State and Part B State other than Jammu and Kashmir an Advisory Committee consisting of not less than three, and not more than seven Members of Parliament representing that State; and

(*b*) in respect of each Part C State other than Bilaspur, Coorg and the Andaman and Nicobar Islands, an Advisory Committee consisting of the Member or Members of Parliament representing that State.

(2) The Election Commissions shall, in consultation with the Advisory Committee so set up in respect of each State, formulate

proposals as to the delimitation of constituencies in that State under sections 6, 9 and 11 or such of these sections as may be applicable and submit proposals to the President for making the orders under the said sections.

(3) Every order made under section 6, section 9, section 11 or section 12 shall be laid before Parliament as soon as may be after it is made, and shall be subject to such modifications as Parliament may make within twenty days from the date on which the order is so laid."

Now, the responsibility of finally determining the constituencies is cast upon these Committees and consequently it is the recommendation of the Committees that will become operative. That being so, the old provision which required consultation with the Election Commission is unnecessary. That is why I am omitting those clauses.

Mr. Speaker : Amendment moved :

"In sub-clause (2), omit 'after consulting the Election Commission',"

Pandit Balkrishna Sharma (Uttar Pradesh) **:** On a point of clarification, Sir, the doubts raised by my hon. friend Pandit Thakur Das Bhargava that different Committees which the Hon. the Speaker may appoint consisting of three to seven Members may make different recomendations in regard to different States and therefore there may not be uniformity have not been answered. How is that contingency provided for?

Dr. Ambedkar : The reply is very simple. The work of the Committees both in respect of Parliamentary constituencies and State Legislature constituencies will be governed by the law which, as I said, Parliament would be making hereafter. So, they would not be acting independently.

Dr. Deshmukh (Madhya Pradesh) **:** Sir, when the Hon. the Law Minister moved to delete the words "Election Commission", I felt very happy. But unfortunately they are coming in again by way of amendment to clause 13. I am in a very co-operative mood today and am prepared to take the most sympathetic view of the whole situation, but I would urge that the Election Commission should be absolutely kept apart from the work of the delimitation of constituencies. This is a body which has come into existence as a result of the Constitution and its functions have been determined by article

324 of the Constitution. So, there should be some amendment to say that the President shall bring into being such bodies as may be necessary for the delimitation of constituencies. The main idea is that the Election Commission should be the last body which should have anything directly to do with the delimitation of constituencies.

Shri Kamath : In view of the fact that the work envisaged in this Bill has to be undertaken almost immediately, am I to understand that the purport of this amendment is to see that these Committees—Advisory or otherwise—will be constituted immediately ?

Dr. Ambedkar : No. As soon as the other work is ready, they will be constituted.

Mr. Speaker : Hon. Members will see that there must be set up some administrative machinery for making proposals, and that administrative machinery, so far as I see, is the Election Commission.

Dr. Ambedkar : Otherwise, how can Members of the House delimit a constituency ?

Mr, Speaker : I will invite the attention of the House to one thing more and that is this—that though the committees are advisory the amendment says "the Election Commission shall, in consultation with the advisory committees", not after consultation. That is a big change. But whatever that may be, I put the amendment to the House. It has been sufficiently discussed.

Shri Syamnandan Sahaya : Sir, I just want to bring to your notice that after the President has determined the Parliament is supposed to alter it.

Dr. Ambedkar : I have said so many times that the President will not do anything except in accordance with the law which will be made. How many times am I to repeat it ?

Mr. Speaker : The question is **:**

> "In sub-clause (2) omit 'after consulting the Election Commission',"

The motion was adopted,

(Clause 6, as amended, was added to the Bill.—*Ed.*).

*Clauses 7 and 8

Clauses 7 and 8 were added to the Bill.

Clause 9

(Delimitation of Assembly Constituencies.)

Amendment made :

"Omit 'after consulting the Election Commission'."

—[*Dr. Ambedkar*]

Shri Tyagi : I beg to move :

Add the proviso :

"Provided that areas comprising a municipal board or a municipal corporation shall not be included in a constituency which comprises of rural areas.

Sir, since the time this Bill has come before this House I have been striving my best to see that the rights and privileges which have so far been enjoyed by the rural areas may not be taken away from them. For the last thirty years and more rural areas have been having their separate constituencies in the Legislative Assemblies of the various States.

Dr. Ambedkar : Sir, may I point out, in order to curtail discussion, that this is a matter which could more appropriately be dealt with in the Bill which will be coming up before the House. I do not think that this is a matter which is germane to this particular Bill.

Shri Tyagi : But then there would be no point in my bringing it up after the electoral rolls are prepared where rural areas are mixed up with urban areas.

In the case of other hon. Members' amendments the Hon. Dr. Ambedkar has given some assurance that they will be considered—but mine he has been opposing all along. For the last two days I have been trying my best to convince him of my view-point; but he has not given me a sympathetic hearing.

Mr. Speaker : But this time he has shown sufficient sympathy by saying that the matter may be brought up at the time when the next Bill is taken up.

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*P.D.. Vol. 2, Part II, 20th April 1950, p. 3071.

*** Clause 10**

Clause 10 was added to the Bill

Clause 11

(Delimitation of Council Constituencies)

Amendment made :

"Omit 'after consulting the Election Commission'."

—[*Dr. Ambedkar*]

Clause, as amended, was added to the Bill.

Clause 12

(Power to alter or amend orders)

Shri Syamnandan Sahaya : I cannot understand what is the necessity for this clause, because over and above all these Advisory Committees this gives the President power to alter the whole thing after consulting the Election Commission. I want to understand the position. It runs counter to what we agreed to.

Mr. Speaker : Perhaps, the idea is to vest the President with power to revise his own orders from time to time.

Dr. Ambedkar : Once the orders have been finalised by Parliament there will be no power to amend them.

Mr. Speaker : But are the words "after consulting the Election Commission" necessary ?

Dr. Ambedkar : That is before they have been finalised by Parliament.

Shri Syamnandan Sahaya : There will be this Advisory Committee. The Advisory Committee and the Election Commission will jointly send a prticular proposal to the President. The President accepts it and passes orders under clauses 6, 9 or 11. After that the election goes on.

Dr. Ambedkar : After that the order is placed before Parliament. The recommendation is made by the Advisory Committee to the President. The President may make an

* P. D., Vol. 4, Part II, 20th April 1950, p. 3072-74.

order. After that the order is placed before Parliament. There is an interregnum. During the period if the President thinks that probably he has made an error he should have the power to alter or amend the order.

Mr. Speaker : So, this power will not extend to alteration after the House approves. Then it is final.

Clause was added to the Bill.

Clause 13

(*Orders to be laid before Parliament*)

Dr. Ambedkar : I beg to move :

For existing clause, substitute :

"13. *Procedure for making orders under sections 6, 9 and 11.*—

(1) As soon as may be after the commencement of this Act, there shall be set up by the Speaker—

(a) in respect of each Part A State and Part B State other than Jammu and Kashmir, an Advisory Committee consisting of not less than three, and not more than seven, Members of Parliament representing that State ; and

(b) in respect of each Part C State other than Bilaspur, Coorg and the Andaman and Nicobar Islands, an Advisory Committee consisting of the Member or Members of Parliament representing that State.

(2) The Election Commission shall, in consultation with the Advisory Committee so set up in respect of each State, formulate proposals as to the delimitation of constituencies in that State under sections 6, 9 and 11 or such of these sections as may be applicable and submit proposals to the President for making the Orders under the said sections.

(3) Every Order made under section 6, section 9, section 11 or section 12 shall be laid before Parliament as soon as may be after it is made, and shall be subject to such modifications as Parliament may make within twenty days from the date on which the Order is so laid."

Mr. Speaker : I have just one doubt in sub-clause (3). The wording is "and shall be subject to such modifictions as Parliament may make within twenty days from the date on which the Order is so laid." What is really intended, I think is that the motion for making amendments may be initiated within twenty days.

Dr. Ambedkar : It will be initiated long before so that the final order of Parliament shall be passed not after twenty days ; twenty days is the period that has been given. Government will no doubt initiate whatever changes are necessary.

Mr. Speaker : I do not know. I thought that it would be a rather difficult matter. It is just possible that the House may be engaged with important business and it may not pass the necessary order before twenty days.

Dr. Ambedkar : The House will then have to give precedence to this.

Mr. Speaker : What I was considering about this was that we might say "and shall be subject to such modifications as Parliament may make on a motion made within twenty days from the date on which the Order is so laid."

Dr. Ambedkar : I am prepared to accept it.

An. hon. Member : Parliament may not be in session.

Mr. Speaker : Therefore, what I was suggesting to the Law Minister was that twenty days will be counted from the time of laying it when the House is in session and the only condition should be that a motion is made within twenty days.

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* **Shri Ramalingam Chettiar** (Madras) **:** I have a little doubt as between clauses 12 and 13. Clause 12 says that the President may alter the order he has passed already. Clause 13 says that it may be modified by the Parliament. In the interval what is going to happen ? Is the order passed by the President to be effective or is it to be only provisional.

Dr. Ambedkar : It is provisional because the final authoirty is with Parliament.

Shri Ramalingam Chettiar : You do not say so. The section as it stands says that it is a final order subject to modification and not that it is a provisional order. The order becomes effective immediately it is passed. It may be modified by the Parliament afterwards.

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* P. D., Vol. 4, Part II, 20th April 1950, pp. 3074-75.

Dr. Ambedkar : It is a provisional order in the sense that if Parliament does not afterwards modify, it takes effect. But the ultimate power of enactment so to say is left to Parliament.

Pandit Thakur Das Bhargava : The point raised by my hon. friend Mr. Kamath was that as a matter of fact according to the Constitution the Election Commissioner is invested with certain powers and these powers do not deal with the delimiting of constituencies. It is the privilege of the Parliament alone to delimit constituencies. Now the Election Commissioner is put in a much better situation than even the Committee. He will only consult it and he has the right to formulate the proposals.

Mr. Speaker : This is the same thing which was raised previously. When we discussed clause 6 the same point was raised and the position has been clarified already by the Hon. the Law Minister. Ultimately it is Parliament which is going to exercise this power.

Dr. Ambedkar : All these are preliminary stages. Even the President's order is a preliminary stage.

Mr. Speaker : The hon. Member will see in the amendment the words "formulate proposals as to the delimitation of constituencies". He is not given the power of determining. Another thing to remember is that, it is this Parliament that will deliberate and examine the proposals in respect of the delimitation.

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* **Dr. Deshmukh :** .....You might lay down any procedure by which the committees will be elected. But there should be some element of election in so far as these persons are concerned. The Chair should not be saddled with the responsibility of creating a body which is going to determine the constituencies.

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*P.D.. Vol. 4, Part II, 20th April 1950, pp. 3076-77.

Mr. Speaker : May I know the reactions of the Hon. the Law Minister?

Dr. Ambedkar : I cannot accept any of these amendments.

Sardar B. S. Mann : What about my amendment Sir ?

What is the Hon'ble Minister's reaction ?

Dr. Ambedkar : I cannot accept it.

Sardar B. S. Mann : Then I do not move it.

Clause 20

(Meaning of 'Ordinary resident')

* **Dr. Ambedkar :** I beg to move:

After sub-clause (3), insert :

"(4) Any person holding any office in India declared by the President in consultation with the Election Commission to be an office to which the provisions of this sub-section apply, or any person who is employed under the Government of India in a post outside India, shall be deemed to be ordinarily resident during any period or on any date in the constituency in which, but for the holding of any such office or employment, he would have been ordinarily resident during that period or on that date."

and renumber the subsequent sub-clauses.

In sub-clause (4), renumbered as sub-clause (5),—

(i)after "sub-section (3)", insert "or sub-section (4)" ; and

(ii)after "Armed Forces" insert "or but for his holding any such office or being employed in any such post as is referred to in sub-section (4)."

In sub-clause (5), renumbered as sub-clause (6),—

(i) after "sub-section (3)", insert "or sub-section (4)"; and

(ii) for "sub-section (4)", substitute "sub-section (5)";

This amendment is made for the purpose of removing some doubts that were expressed with regard to the application of the term "ordinarily resident" which occurs in clause 20, in

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* P. D., Vol. 4, Part II, 20th April 1950, pp. 3081-82.

its application to certain persons who may have temporarily left their places of ordinary residence and gone to stay somewhere else. It is felt necessary that such a provision ought to be inserted in this clause. This refers to persons who are sent outside India temporarily on official duty and in whose case it may be presumed that they have ceased to reside in the place of their ordinary residence. It is to prevent that kind of presumption being drawn in their case and to retain their right to be registered in the constituency in which they have been ordinarily residing that this provision is made.

Similarly, this provision is also intended to apply to the case of Ministers, for instance, at the Centre who, having regard to the fact that they have accepted certain offices under the State, presumably intend to stay here during the term of their office which might be co-terminus with the term of Parliament itself, namely five years. There again, it might be presumed that they have ceased to reside in the place where they have been ordinarily residing. It is to cover that case also that it is felt that some such provision is necessary.

It was also suggested to me that Members of Parliament as distinguished from office-holders, such as Ministers and so on, may be affected by the other presumption, namely that as they come here often they may also be deemed not to reside in the place where they are ordinarily resident. But on advice I feel that that presumption cannot be applied to them, for the reason that when a man temporarily for some specific reason leaves his ordinary place of residence and goes somewhere else, it cannot be presumed in law that he has abandoned his intention to revert to his original place of residence. Consequently, I don't think that that provision is necessary in the case of Members of Parliament. In the other two cases it seems that it may be necessary and as a measure of precaution I propose to introduce this amendment.

The motion was adopted:

Clause, as amended, was added to the Bill.

Clause 21

(Meaning of 'qualifying date' and 'qualifying period')

* **Dr. Ambedkar :** I beg to move :

For sub-clause (a), substitute :

> "(*a*) in the case of electoral rolls first prepared under this Act, shall be the first day of March 1950, and the period beginning on the first day of April 1947 and ending on the thirty-first day of December 1949, respectively; and"

This is the result of the agreement that was reached this morning as regards the preparation of the electoral rolls and the qualifying period.

Clause 27

**** Dr. Ambedkar :** Sir, I thought that I had this morning explained to the hon. Member who initiated this debate why clause 17 was not applied, but evidently he was very keen that his objections should be heard by the whole House. I do not deny him that privilege.

Shri Ethirajulu Naidu : On a point of order, Sir, is it in order to refer to what transpired at the meeting in the morning ?

Dr. Ambedkar : Certainly ; there is nothing secret about it. The committee was constituted by the Speaker himself.

Mr. Deputy Speaker : There is nothing secret about it. It is in order.

Dr. Ambedkar : Now, Sir, the point is this. No doubt we have initiated in clause 17 of the Bill a very important principle, namely, that one man shall be registered in one constituency and that he shall have one vote, but it must always be understood that the prinicple can be made applicable only in the case of constituencies of the same class, that is to say, territorial constituencies. Now, the constituencies which we propose to form under clause 27 of this Bill are different classes of constituencies. They are not constituencies of the same class. A graduate constituency is a

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*P. D., Vol. 4, Part II, 20th April 1950, pp. 3082.

***Ibid.,* pp. 3084-87.

constituency of a different class. A teachers' constituency is a constituency of a different class. Similarly, the local authorities' constituency is a different class of constituency. Consequently, there does not seem to be any very great anomaly if the name of a person is included in the electoral rolls of different classes of constituencies. Besides, I am really bound to say this : I cannot understand why Members of Parliament are so much exercised over the constitution of the Upper Chamber.

It is an utterly effected body—not even an ornamental one. It has no power—not even power of revision. It is not a body with co-equal authority with the Lower Chamber. Some provinces desired that they should have them. They were probably under the impression that their Second Chamber would be a Second Chamber more or less on the same pattern of the Chamber here, which would have the authority to hold up, if not financial legislation, at least ordinary legislation. But even that power is not there and I do not understand why Members of Parliament, even for the sake of merely maintaining some theoretical principle bother their head about a constitutional body which I say is of no value and no consequence.

5-00 P.M.

Clause 27 was added to the Bill.

Clauses 28 and 29

Dr. Ambedkar : I had assured my friend Pandit Thakur Das Bhargava that I would make a statement on the point in which he is interested and I do now say that we shall take every care to see that the existing electoral rolls are revised and any omissions or additions that are necessary will be made.

Clauses 28 and 29 were added to the Bill.

New Clause 30

Dr. Ambedkar : I beg to move :

After clause 29, add :

"30. *Jurisdiction of civil courts barred.*—No civil court shall have jurisdiction—

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in a electoral roll for a constituency; or

(b) to question the legality of any action taken by or under the authority of an Electoral Registration Officer, or of any decision given by any authority appointed under the Act for the revision of any such roll."

This is a usual clause and was omitted inadvertently.

The motion was adopted.

New clause 30 was added to the Bill.

Schedules

Dr. Ambedkar : I beg to move :

(*i*) In the First schedule,—-

(*a*) for the entries under the heading "Part C States" substitute :

"1.	Ajmer	...	2
2.	Bhopal	...	2
3.	Bilaspur	...	1
4.	Coorg	...	1
5.	Delhi	...	4
6.	Himachal Pradesh	...	3
7.	Kutch	...	2
8.	Manipur	...	2
9.	Tripura	...	2
10.	Vindhya Pradesh	...	6
11.	Andaman and Nicobar Islands .	...	1"

(b) against "Total", for "488" substitute "496".

(ii) In the Second Schedule, in column 2, for existing entries, substitute :

"108
339
315
232
375
140
126
430
238
175
99
99
60
160
60
108"

(iii) In the Third Schedule, in column 2 to 7, against "Bihar", " Bombay", " Madras" and " Uttar Pradesh", for existing entries, substitute :

"72
24
6
6
24
12"

(iv) For the Fourth Schedule, substitue:

"THE FOURTH SCHEDULE

[*See* section 27(2)]

Local Authorities for purposes of elections to Legislative Councils

BIHAR

1. Municipalities.
2. District Boards.
3. Cantonment Boards.
4. Notified Area Committees.
5. The Patna Administration Committee.

BOMBAY

1. Municipalities.
2. District Local Boards.
3. Cantonment Boards.

MADRAS

1. Municipalities.
2. District Boards.
3. Cantonment Boards.
4. Major Panchayats, that is to say, Panchayats notified by the State Government in the *Official Gazette* Panchayats which exercise jurisdiction over an area containing a population of not less than five thousand and whose income for the financial year immediately preceding the date of the notification was not less than ten thousand rupees.

PUNJAB

1. Municipalities.
2. District Boards.
3. Cantonment Boards.
4. Small Town Committees.
5. Notified Area Committees.

UTTAR PRADESH

1. Municipalities.
2. District Boards.
3 Cantonment Boards.
4. Town Area Committees.
5 Notified Area Committees.

WEST BENGAL

1. Municipalities.
2 District Boards.
3. Cantonment Boards.
4 Local Boards.

MYSORE

1. Municipalities.
2 District Boards."

Mr. Deputy Speaker: Amendments moved.

*** Mr. Deputy Speaker:** May I suggest one course ? Those who are satisfied with the number of seats allotted need not speak. We have got another Bill. Other hon. Members who have got any representation to make may make their points.

Shri Deshbandhu Gupta: I want to say a few words.

Dr. Ambedkar: You have got four seats all right.

Shri Gautam (Uttar Pradesh): I do not want to take much time of the House. I rise to oppose the amendment moved by Shri Jaspat Roy Kapoor. I want to say that we the people of U.P. and the Government of U.P. are satisfied with the number 72 so far as the Upper House is concerned. We do not want any more and—

Shri J. B. Kapoor: Does the hon. Member claim to be the sole representative of the U.P. both of Government and the people ?

Shri Gautam : I know the mind of the Government and I am in a position to say that I know the mind of the people. I can claim that I represent the Congress organisation as a General Secretary and I can say that I do represent some people, at least, him.

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* D. Vol. 4, Part 11, 20th April 1950, pp. 3092-93.

Shri Syamnandan Sahaya: That is Jaspat Roy Kapoor ?

Shri Gautam: If he is a Congress-man.

Shri Tyagi: I am an Ex-General Secretary.

Shri Gautam: Dr. Ambedkar has no personal axe of his own to grind. He is not interested in the U.P. At the request of some of us, he has reduced the number. He is neither in favour of 72 nor of 86. It is we who requested him and he has accepted our request. We are obliged to him for that. Therefore I oppose the amendment moved by Mr. Jaspat Roy Kapoor.

***Dr. Ambedkar :** Sir, I do not think I can at this late stage enter into any elaborate arguments with regard to the various matters, constitutional or otherwise, which have been raised. I do not think we have violated the Constitution as my friend Mr. T. T. Krishnamachari supposes in giving the allotted seats mentioned in the First Schedule to Part C States. We are perfectly within our constitutional rights in allotting the seats in this schedule. With regard to the amendment of the Third Schedule my friend Pandit Kunzru would have seen that it is only in one case as a matter of fact that the total number is reduced and that is with regard to Uttar Pradesh.

Mr. Deputy Speaker: Madras also.

Dr. Ambedkar: I was coming to it. I am taking Uttar Pradesh for my observation. There I am confronted with the fact that the State Government is very chary of increasing the size of the Upper Chamber and sitting as we are at Delhi, I do not like to sit in judgment over the decision of the State Government as to what is the suitable number for their Upper Chamber. They have thought that 72 is the proper and sufficient number for their Upper Chamber and it is on that basis that I have reduced 86 to 72. With regard to the changes made in the total number of Bihar, Bombay and Madras, I might say that the proposition enunciated by Mr. Tyagi today in the informal meeting that the total number should be divisible by 12 did appeal to me and it is for that reason that

* P. D., Vol. 4, Part II, 20th April 1950, p. 3095-96.

I have fixed 72 in the case of Bihar, Bombay and Madras. It will be noticed that my amendment as a matter of fact while it decreases the total number for Madras by only 3, increase the quota for Bihar and Bombay. There could therefore be no complaint on that account. I was sorry to see that I could not apply the same principle to Punjab because it has only got a minimum.

With regard to Bengal, it was felt that if the principle was applied *viz.,* divisible by 12, the number would go down from 51 to 48 and it was felt that Bengal was a big enough State to have at least 51 and I have therefore not touched the figure of these two States. In other cases my friend Mr. Tyagi will see that I have really yielded to his principle.

With regard to the question of extending the Fourth Schedule to Village *Panchayats* or the Headmen of the *Panchayats,* I am sorry to say that I am not able to accept that suggestion for the simple reason that it is felt, I am sure, in large sections of this House that to include Village *Panchayats* as bodies who would have the right to send their representatives would merely be the duplication of the same electorate because in view of the fact that we are going to have adult suffrage, practically every member of the Village *Panchayat* would also have a vote in the election of the Lower House of that State and therefore it would be a needless duplication and I am not therefore prepared to accept his suggestion.

Shri Barman (West Bengal)**:** What about the Members of the Municipalties and District Boards ?

Dr. Ambedkar: They might be, I cannot help it but to extend it to *Panchayats* would be a complete duplication of the votes—a sort of double voting—and I am not prepared to accept it. I do not know whether there is any other point. For Madras it is only a reduction of 3.

With regard to Delhi, whatever my friend may say, I have no doubt about it that the House has been more than generous.

Shri Syamnandan Sahaya: He himself is more than happy.

Dr. Ambedkar: It is not only being correct but very considerate.

Syed Nausherali: What about the Union Boards ?

Dr. Ambedkar: I quite see that the opinion of the Bengal Government and the view expressed by my two hon. friends today seem to differ. Some say the local board entry which has been suggested by the West Bengal Government should be retained and my two friends stated that it ought to be deleted and the entry of Union Boards should be there.

Syed Nausherali: Both may be there.

Dr. Ambedkar: I shall have to make some enquiries on this point. If I find that it is necessary to make a change it would not be difficult to bring in a small amendment to make the change. For the moment I must act upon advice which I think is reliable.

Shri J. R. Kapoor: What are the special reasons for increasing the number of seats of Bombay State from 66 to 72, when the next divisible number by 12 is 60.

Dr. Ambedkar: It is not a very wide difference. There is nothing sacred about one number or the other. All I want is divisibility by 12.

Mr. Deputy Speaker: Bombay is a composite Province consisting of Gujaratis, Marathis and Karnataks.

(*The First, Second, Third and Fourth Schedules as amended were added to the Bill.*)

Clause 1 was added to the Bill.

(*The motion moved by Dr. Ambedkar was adopted).*

●●

SECTION III

1st August 1950

TO

22nd December 1950

SECTION III

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(17)

* DENTISTS (AMENDMENT) BILL.

The Minister of Law (Dr. Ambedkar): If the Hon. the Health Minister is ill, I am asked to take charge of this Bill and I, therefore, beg to move:

> "That the Bill to amend the Dentists Act, 1948, be taken into consideration."

The Bill is a very short one and it does not involve any controversial matters. The Dentists Act of 1948 came into force on the 29th of March 1948. It was made applicable to Part A, Part C and Part D States. Under Section 49 of that Act, it is provided that no person shall be entitled to practise dentistry after the 28th March 1950 unless his name appears on a register of dentists which the Act required should be prepared in accordance with the rules contained therein. It was hoped that that register would be ready by the 28th of March 1950. Consequently, the operative portions of this Act were so framed to come into operation on the 28th March 1950. Unfortunately, this expectation has not been fulfilled. It was roported from various States that the register would not be ready by the 28th March 1950 and consequently it became necessary to extend the period by one year in order to enable the States concerned to prepare the register. As the Parliament was not then sitting, Government issued an Ordinance giving effect to the necessary provision extending the period up to the 28th March 1951. This Bill is intended to convert the Ordinance into law. The main provision therefore, is to extend the period for the purpose of preparing the register.

Advantage has been taken of the present occasion to amend the law in order to remove some of the difficulties which have been felt in giving effect to the original Act. Firstly, the

* P. D. Vol. 4, Part II, 11th August 1950, pp. 841-43

original Act contained two provisions. One provision was not to allow any person who was not placed on the register to be employed in Government hospitals. Obviously, it was expected that this provision would become operative after the registers were ready. As the registers are not ready, persons who have not been placed on the register by reason—not of their not being qualified, but of the register not being ready—would become disabled from holding any office in Government hospitals. Therefore, it has become necessary to extend the period and permit such persons to hold office notwithstanding the fact that they are not placed on the register.

Secondly, there is a Dental School in Bengal which used to grant Diplomas in Dentistry. At the time when the Act was passed there was a controversy as to whether the diplomas granted by this Dental School of Bengal should be recognised to enable persons holding the diploma to be placed on the register. It was felt that the diplomas granted by the Dental School of Bengal were not sufficiently qualified to place them on the register. There has been considerable agitation by persons holding the diploma granted by the Dental School of Bengal that this disability should be removed. A compromise has been suggested by the Government of West Bengal according to which persons who have received their diploma before the year 1940, subject to certain conditions, may be treated as persons qualified to be entered upon the register. That compromise is also given a place in this Bill.

The Bill, therefore, contains three provisions : (1) to extend the period (2) to permit names of persons holding diplomas of the Dental School of Bengal in certain circumstances to be place on the Register and (3) to continue the employment of unregistered dentists in the Government hospitals till 1951 until the register is prepared.

This is all that the Bill contains and I hope that the House will not find any difficulty in giving its assent to the Bill

Mr. Speaker : Motion moved :

> "That the Bill to amend the Dentists Act, 1948, be taken into consideration."

Shri Sidhva (Madhya Pradesh)**:** First of all I take strong exception to the issue of an ordinance when the House was sitting in the month of March.

Dr. Ambedkar: The ordinance was issued some time in May.

Clause 2

*** Dr. Ambedkar:** I wish that the points that were raised by my hon. Friend Mr. Sidhva and Pandit Thakur Das Bhargava had been reserved by them to the time when their amendments were taken up. It becomes somewhat embarrassing to reply on matters which would, I have no doubt, be raised again when their amendments are moved. But, I cannot help now having to reply to the points raised by them; I shall do so rather briefly, because I know I shall have to say ....

Mr. Speaker: I do not propose to allow any arguments on the amendments.

Pandit Thakur Das Bhargava : I am not going to move my amendment if my hon. friend does not accept it.

Dr. Ambedkar : Mr Sidhva has raised one or two points. The last point raised was why an Ordinance was made when the House was in session. The answer to that is two fold. The first is this. The first request that was made to the Government of India in the matter of extension of time for the preparation of the register came from the Government of Madras, and that too on or above the 15th of March 1950. That means that only 13 days had been left for the period for the preparation of the roll to expire. That is one reason. The second reason is that after the receipt of this letter from the Government of Madras, informing the Government of India that it was not possible for them to complete the Register, naturally it was necessary for the Government of India to find out from other States as to whether they were in a position to prepare their list by the date fixed, or whether they too wanted some extension. Naturally, there ensued

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* P. D. Vol. 4, Part II, 11th August 1950, pp. 856-62.

correspondence between the Government of India and the various other States.

They undoubtedly took time, and must make time, with the result that by the time the Government of India had received the replies and was able to assess whether an amendment in terms proposed by the Government of Madras was necessary, Parliament had been prorogued. That is the reason why the measure could not be brought up before the recess.

The second point raised by my friend Mr. Sidhva was this that he did not see any reason why we should make a statutory provision for the recognition of certain qualifications granted by the Bengal Dental School. According to him that was a matter which by the Act is left to the Dental Council. Now, I think my friend Mr. Sidhva has missed one important point and it is this. The power to grant recognition vested in the Council relates to qualifications or degrees granted by schools in existence; but we are dealing with a matter in which degrees and diplomas have been granted by a body which has become defunct. Consequently, it is for the Government of the day to decide whether the degrees granted by a school giving tuition in dentistry were worthwhile recognition or not. It is not a matter which should be left to the Bengal Council under Section 10, sub-clause (2). The word is "grants" which means "is granting at present" and not diploma which have been granted before. That being so it cannot be a matter which could be left easily to be dealt with by the Dental Council under its power, and if we have to amend the Schedule, then that must be done by the law itself. That is why a legal provision is made in the Bill to cover that particular matter.

Now, what I have said with regard to the Bengal Dental School also applies to what my friend Pandit Thakurdas Bhargava said on the very same question.

I come now to the points raised by Mr. Kamath. The first point raised by him was more or less of a technical character. If I understood him correctly, he said that the law required that the Register should be ready on the 28th March, 1950, and that if a person was not on the Register, then under the

provisions of Sections 46 and 49, he incurs certain penalties, while the Ordinance which exempted the person concerned from these penalties came into operation on the 29th May 1950. There is, therefore, a two months' period in which a person not being on the Register and continuing to practise or holding office was liable to certain penalties. What is the position with regard to these persons ? I think my friend Mr. Kamath, if he had read clearly the terms of the amendment proposed in the bill itself, he would have seen that the provisions say that:

> "In sub-section (3) of section 46 and sub-section (1) of section 49 of the said Act, for the words 'two years' the words 'three years' shall be substituted and shall be deemed always to have been substituted."

Therefore, it is clear that that point has been adequately covered by the present clause.

Shri Kamath : My point was that if during these two months, from March 29th to May 29, if a dentist had not been registered, then under the Act, and because the Ordinance had not come into force, how could mere executive instruction from the Government prevent a prosecution, or some other penalty being imposed on that dentist ?

Dr. Ambedkar : I quite agree that that could not have prevented prosecution. But fortunately no such case happened and it cannot happen now because the period is carried back to the original Act.

Shri Kamath : But then, Sir,……..

Mr. Speaker : Order, order. The point is very clear.

Dr. Ambedkar : My friend Mr. Kamath in dealing with the reasons as to why this Bill was brought in, has made, if I may say so, certain very serious allegations. The contention on behalf of the Government is that this Bill has become necessary by reason of the fact that the States which were required to carry out the provisions of preparing the list have not been able to do so. My friend suggests that there is another reason, and that reason is that there are certain British dentists working in this country who do not propose to become domiciled and get themselves registered, and that this Bill

is intended to benefit them. Now, I first of all do not understand how an extension of one year is going to benefit a British dentist working here who has no intention of becoming a domicile of this country. I cannot understand it. But if my friend persists in making that suggestion, which I think is a very setious allegation against an hon. Member of Government, then it should be his duty when that Member returns, to specifically put the question and ask her reply, whether this was the real motive in bringing forward this particular Bill. I am unable to give any categorical answer; but I may say that I find it extremely difficult to believe that an hon. Member of Government should venture to bring forth such a Bill for no other purpose except the paltry purpose of benefiting one or two European dentists now in this country. It seems to me a most extravagant allegation.

Shri Kamath : I did not say it is the only purpose, it may be one of the purposes.

Mr. Speaker: But still, the suggestion is very uncharitable.

Dr. Ambedkar : On that point also I would like to point out to him, in answer to a question that he asked, namely, to state the present position, that all the States, who were written to in order to find out how much time they would find it necessary to prepare the Register, have replied that they would require not less than one year. And the Bombay Government which may be given the credit of having a more efficient administrative machinery than others, insisted that they should have two years. I think that in itself would suffice to dismiss the suggestion made by my friend Mr. Kamath that this Bill was intended to protect some Britishers in this country.

I do not think that there is any point which has been raised to which I have not adverted in the course of my reply. The Bill, as it is, is a very simple, non-controversial one. It has arisen not because of the fault of the Central Government but because of the other burdens carried on by the Provincial Governments, they could not find the time to bring a particular provision of the Act into operation. I do not know whether we can do nothing else except to help the Provincial Governments to give effect to this piece of legislation and bring the Dentists Act into operation as early as possible.

Mr. Speaker : The question is :

"That the Bill to amend the Dentists Act, 1948, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 *(Amendment of section 46 and section 49, Act XVI of 1948)*

Shri Kamath : I beg to move :

"In clause 3, in the proposed amendment to sub-section (3) of section 46 and sub-section (1) of section 49 of the Dentists Act, 1948, for 'three years', substitute 'two years and six months'."

The present clause has been inserted so as to enable State Governments to complete their registers of dentists under sections 46 and 49 of the Act. This is a retroactive piece of legislation in as much as the words used in the clause are "and shall be deemed always to have been substituted." I for one cannot see why for registering a few hundred dentists such a long period is necessary. I do not know how many dentists there are in all the States .....

Dr. Ambedkar : This is a matter of opinion. My friend Mr. Kamath with his abundant energy and administrative experience no doubt thinks that six months would be more than enough for completing the register. That as I just now told the House, even a Government as efficient as the Government of Bombay asked for two years. I personally myself think that in view of the fact that the obligation of preparing the register rests upon the Provincial Governments, it is desirable that this House should follow what the Provincial Governments think is feasible in this matter. As a matter of fact we have curtailed the period to one year instead of the two years asked for by the Bombay Government. We have stuck to one year, which was the original proposal by the Government of Madras. I do not think it is possible for us with safety to curtail the period provided in this Bill.

Shri Kamath : I take it that the Hon. Minister has no figures with him.

Dr. Ambedkar : No figures.

Mr. Speaker : If the registers are incomplete, how can he give the correct figures ?

Dr. Ambedkar : There is no register and who knows who is a dentist and who not.

Mr. Speaker : The question is :

> "In clause 3, in the proposed amendment to sub-section (3) of section 46 and sub-section (1) of section 49 of the Dentists Act, 1948, for 'three years', substitute 'two years and six months'."

The motion was negatived.

***Dr. Ambedkar :** As my friend Mr. Sidhva, has said this amendment affects an important principle which underlies the provisions of this clause, namely that the registers should be operative on the same date throughout India. This is not a mere matter of academic interest....

Shri Sidhva : Is it laid down in the Act ?

Dr. Ambedkar : That is why we have said three or two years throughout. Otherwise we would have prescribed different dates for different States. It is necessary and desirable to preserve the principle of uniformity. The House will see that it affects eligibility for holding posts. It cannot be said that a person is eligible for holding a post in a particular State and not eligible in another State, simply because the State has not been in a position to prepare the register. Therefore, I think as it is desirable to preserve the principle I cannot accept the amendment of Mr. Sidhva After all the difference is only a matter of six months.

Shri Sidhva : I beg leave to withdraw my amendment.

The amendment was, by leave, withdrawn.

Mr. Speaker : The question is :

> "That clause 3 stand part of the Bill."

The motion was adopted.

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* P. D. Vol. 4, Part II, 11th August 1950, pp. 863-64.

Clause 3 was added to the Bill.

*** Clause 4** (Amendment of the Schedule, Act XVI of 1948)

(Mr. DEPUTY SPEAKER *in the Chair*)

Shri Tyagi (Uttar Pradesh) **:** My amendment reads as follows :

> In clause 4, for the proposed item (2A) of Part I of the Schedule to the Dentists Act, 1948, substitute :
>
> "(2A) Any other institution imparting education or giving practical training in dentistry which the Central Government may in consulation with the Central Council of Dentists, recognise for this purpose and on such conditions as the Government may deem fit to prescribe therefor."

I wish to confess that Dr. Ambedkar is a hard nut to crack ..... I don't want to make any aspersions on the institution. I don't know what its standard is, I have no personal knowledge of it, and therefore I don't want to damage the reputation of the institution. But as an enquiry is going on, I think that instead of committing the whole Parliament to recognising that institution, it is better that the Government had reserved the right in their own hands to decide....

Dr. Ambedkar : We are not affecting the institution in any way. We are dealing with the degrees granted by that institution in 1940—eight years ago.

Shri Tyagi : Dr. Ambedkar expects me to believe that the degrees of an institution may be recognised without the institution itself being recognised. The degrees of the Calcutta University granted in such-and-such a year may be recognised for purposes of the I.C.S. or I.A.S., but that does not mean that the Calcutta University is recognised! What an argument ! Here I am giving him more powers. What I am suggesting is that he may even recognise that institution. I want Government to have powers to recognise any institution .....

Dr. Ambedkar : That powers exist in section 10(2).

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* P. D., Vol. 5, Part II, 11th August 1950, pp. 864-65.

*** Mr. Deputy Speaker :** May I know the reaction of the Hon. Minister to this amendment ?

Dr. Ambedkar : This clause is a clause which really gives effect to the suggestion made by the West Bengal Government. Personally I myself feel, however much sympathy I may have with my friend Mr. Bhargava, it involves the question of the assessment of the qualification of the dentist as distinguished from a person who makes a denture. I thought he was rather eloquent on the man who makes a denture. A person may make a denture without being a dentist. We are talking of a dentist, which is a very different profession.

Pandit Thakur Das Bhargava : But he has got a degree of L.D.Sc.

Dr. Ambedkar : The point is this. When the Act was passed, this institution was not deemed to be worthy of recognition. Subsequently there has been a considerable degree of agitation and the West Bengal Government decided to examine the position as to whether any of the persons qualified by tuition in this college were worthy of recognition. They came to the conclusion that before 1940 the standard observed by this institution was something which could be considered for the purpose of recognition. But there again they said that although there was a standard maintained it was also known that many boys merely attended and filled in certain terms without learning anything. Therefore, the two additional qualifications were introduced that he should not only have obtained his diploma before 1940 but in the course of being a student in that college he should have filled in certain terms. It is to make the qualification a real one, worth of recognition, that these limitation were put in. I am personally prepared to place myself in the hands of the West Bengal Government who know the matter better, rather than substitute my own judgment, however great sympathy I may feel with the dentist themselves.

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* P. D., Vol. 5, Part II, 11th August 1950, pp. 867-68.

Mr. Deputy Speaker : Does the hon. Member want me to put his amendment to the House ?

Pandit Thakur Das Bhargava : Yes, Sir, it may be put to the House.

Mr. Deputy Speaker : Amendment moved :

***Dr. Ambedkar :** I explained the position to you some time ago. The provision in Section 10(2) says 'where the institution grants a qualification'—but we are dealing with qualifications that have already been granted. The word there is 'grant', but here it is different. Therefore, this has to be dealt with by statute.

Mr. Deputy Speaker : I shall now put the amendment to vote.

The question is :

"In clause 4, in the proposed item (2A) of Part I of the Schedule to the Dentists Act, 1948 omit all the words occurring after 'March, 1940'."

The motion of Pandit Bhargava was negatived.

Mr. Deputy Speaker : The question is :

"That clause 4 stand part of the Bill".

The motion was adopted.

Clause 4 was added to the Bill.

Clauses 5 to 7 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Ambedkar : I beg to move :

"That the Bill be passed."

Mr. Deputy Speaker : The question is :

"That the Bill be passed."

The motion was adopted.

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*P.D., Vol. 5, Part II, 11th August 1950, p. 871.

(18)

RESOLUTION RE : MAKING OF LAWS BY PARLIAMENT WITH RESPECT TO CERTAIN MATTERS IN STATE LIST FOR ONE YEAR.

***Mr. Speaker :** The point, as I have understood it, seems to be–apart from the words 'particularly'—that the President has got the power to make adaptations only with reference to the provisions of the Government of India Act, 1935. Perhaps the Law Minister may like to say something on this.

The Minister of Law (Dr. Ambedkar): The wording of the article is that "the President may, for the purpose of removing any difficulties, particularly etc." "Particularly" does not mean that he has not got the general power.

Mr. Speaker : As I have understood the point of order of the hon. Member, apart from the words "any difficulties" and "Particularly", he seems to construct article 392 as empowering the President to make adaptations only for purposes of transition from the provisions of the Government of India Act to the provisions of the Constitution. That is substantially the point.

Dr. Ambedkar : That cannot be because it is a wrong construction. The point raised by my hon. friend is that under article 392 the only power which the President possesses is confined to an adaptation of any section of the Government of India Act, 1935, so as to bring it in line with the provisions of the Constitution. My submission is that that is not correct, because the opening words in article 392 are quite general, namely. "The President may, for the purpose of removing any difficulties" and then "Particularly etc." comes in.

*P.D., Vol. 5, Part II, 12th August 1950, pp. 935-38.

Suppose you were to drop the words "particularly in relation to the transition from the provision of the Government of India Act, 1935, to the provisions of this Constitution" the wording would, "The President may, for the purpose of removing any difficulties, by order direct.... etc".

Shri Meeran (Madras) **:** May I say something with regard to this point ? If you remove the words "particularly in relation to the transition from the provisions of the Government of India Act, 1935" it would read "The President may, for the purpose of removing any difficulties *to the provisions of this Constitution,* by order direct....etc." "Particularly" is something like an instance and it is a smaller provision. The wider provision is the giving of powers to remove any difficulties to the provisions of this Constitution.

Mr. Speaker : I would just seek clarification on one or two points which may dispose of the matter, without entering into the niceties of interpretation. Am I right in my interpretation that the Constituent Assembly of India (Legislative) was functioning as a result of the Adaptation of the Government of India Act ?

Dr. Amedkar : Yes, the Independence Act was an amendment of the Government of India Act, 1935.

(19)

*ADMINISTRATION OF EVACUEE PROPERTY (AMENDMENT) BILL

The Minister of Law (Dr. Ambedkar) : At the outset I would like to say that the point which has been raised, namely, whether the Parliament can by law repeal a State law in the concurrent field, seems to me to have been raised at a very late stage. This Parliament has passed, I am sure, very many laws which contain a provision whereby Parliament has specifically repealed a State law in the concurrent field. My friend Mr. Jain referred to one of them, which is the last one which Parliament has passed, namely, the Merged States Act (Act LIX of 1949). If my friends interested in this subject were to refer to the provisions of this particular law, they will find that there are very many laws which fall into the concurrent field and which were enacted by the states which have been repealed by this particular Act. Therefore, so far as practice is concerned, I do not think there is anything novel in the proposal introduced in this Bill. Of course, it might be contended that this practice is not in keeping with the provisions of the Constitution and that it has no warrant in the Constitution. I think that this practice is perfectly in consonance with the Constitution.

My hon. Friend Mr. Ananthasayanam Ayyangar has very rightly referred to the proviso to sub-clause (2). The importance of this proviso, in my judgment, lies in this, namely, that it is possible and open to Parliament to make a law not only amending, varying, or adding to any law made by the State in the concurrent field, but it has also the power to *repeal* that law. I think this is quite clear from the proviso. So far as this proviso is concerned, the power is specific that Parliament can repeal a law made by the State in the concurrent field. But my hon. Friend Mr. Ananthasayanam

*P.D., Vol. 5, Part II, 21st November 1950, pp. 339-41.

Ayyangar's point was that this proviso is related only to sub-clause (2). Now I think that if he will apply his mind to the necessities mentioned in sub-clause (2) he will find why the Constitution thought it enough to attach the proviso to sub clause (2) and did not feel it necessary to extend it to sub-clause (1). As my friends will see, sub-clause (2) of article 254 refers to a law, which—if my friends will allow me-I would call as a 'protected law', that is to say, a law which is not only passed by the State Legislature but a law which was reserved for the consent of the President and to which the President has given his consent. That is the law which is referred to in sub-clause (2). Now, it was felt that it might be argued that in the case of a law which, though passed by a State Legislature relating to the concurrent field, nonetheless was reserved for the consent of the President and to which the President had given his consent—obviously on the advice of the Central Government which represents the wishes of Parliament—the Central Government may be deemed, I am putting the argument, to be 'estopped' from doing any further thing by way of injuring that particular Act either through amendment or otherwise. It was to eliminate this kind of argument that once the law having been protected the Central Government—to use the term in the Evidence Act—was estopped, so to say, from taking any further action that the proviso was introduced. It was felt not necessary to extend this proviso to sub-clause (1) because the expression 'to make a law' is itself so wide that it could cover even the repealing of a law.

What does 'making of a law' mean? The making of a law, in ordinary terms, means: to enact an enactment where none exists; or, where an enactment exists; to add to it, to vary it, to amend it, or to repeal it. All that is covered in the broad parase 'making a law' Therefore, as making a law included making a law repealing an earlier Act or creating another Act, it was felt that such a prevision as contained in the proviso was unnecessary in respect of sub-clause (1) of article 254. Therefore, article 254 carries the general implication involved, in the phrase 'making of the law' which includes repeal of the law. As sub-clause (2) of article 254 was felt not to carry that implication,—because

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of its protected character,—the proviso was added to it. Therefore, my submission is that there is nothing unconstitutional in Parliament making a law repealing a law made by the State Legislature in the concurrent field.

With regard to the other point whether you can make a general omnibus law repealing certain laws, it seems to me that there again there is nothing improper in that. What are we doing by having this omnibus law? What we could have done was to have hundreds of Acts, each one dealing with a specific law, saying that we repeal this Act; another Act saying that we repeal that; and a third Act saying that we repeal a third one. Instead of doing this kind of thing, we did it in a collective manner.

Shri M.A. Ayyangar : You could have added a schedule here.

Dr. Ambedkar : That also might have been done. There are various ways of doing it. I do not deny that some ways, in some cases, may be better than others, but so far as the general principle involved in the Bill is concerned, I do not think that there is anything unconstitutional or contrary to the practice of the Draftsman. My friends will see that I have, for instance, introduced a Bill called the 'Part B states Bill' in the present session, to which there is a schedule attached. Every one of the Acts is mentioned there. The reason is, as I will explain when the matter comes up, that certain laws could not be applied without certain adaptation. Therefore, a schedule had to be introduced that this law shall become operative subject to this adaptation. There are certain others such as Cooch-Behar where no such schedule exists, because adaptation requirements are not necessary. That might come up today or tomorrow. We, therefore, have a general clause and I do not think that there is anything unconstitutional or improper in the sub-section which is contained in my hon. Friend's Bill.

***Mr. Speaker :** As I said I was not present in the House yestarday, but I have read the proceedings..... Does the Hon. the Law Minister wish to say anything further? I do not think it is necessary now.

Dr. Ambedkar : I have already made the position clear, Sir.

Mr. Speaker : Then I will put the amendment to the House.

The question is :

> "In clause 2 in sub-section (2) of the proposed section 58 of the Administration of Evacuee Property Act, 1950, for the words "corresponding: to this Act", substitute the words, brackets and figures "which corresponds to this Act and which is not repealed by subsection (1)".

The motion was adopted.

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*P.D., Vol. 6, Part II, 21st November 1950, pp. 342.43.

(20)

*QUALIFICATIONS FOR ELECTIONS TO PARLIAMENT AND LEGISLATURE OF STATES

Shri Sarwate (Madhya Bharat)**:** Before you proceed further with the amendments would you not like, Sir, to call upon Dr. Ambedkar and enquire whether he would like to make any statement on the suggestion which Prof. K.T. Shah has made?

Mr. Speaker : I do not think it was necessary for me to call upon him. If he had tried to catch my eye, certainly I would have called him.

The Minister of Law (Dr. Ambedkar) : I do not want my friend Prof. K.T. Shah to feel that I have not sufficient respect for him by not speaking on his motion and if you will, Sir, permit me at this stage I would like to say a few words.

Mr. Speaker, I must confess that when I got the text of the Resolution moved by Prof. Shah I was considerably puzzled, because I felt that in a Resolution of this sort there should not merely be words indicating to Government that there exists in the Constitution a certain article which permitted them to legislate on it but should have also included in it specific suggestions as to what the Government should do in a legislation of this sort. As I said, I was considerably puzzled and therefore it was very difficult for me to come to any definite conclusion as to the attitude I should adopt with regard to this Resolution. I now see that the object of Prof. Shah in framing the Resolution in the terms in which he has framed it was really deliberate. He wanted the House to give him some idea as to what should be incorporated in a legislation under sub-clause (c) of the relevant article in the Constitution. Well, I have no objection to a procedure of

*P.D., Vol. 6, Part II, 23rd November 1950, pp. 537-41.

this sort but I should have thought that if Prof. Shah was so keen as he appeared to be for a legislation of this sort, he should not have had an empty mind without any kind of a suggestion of his own. However, I suppose those who have supported his resolution have correctly interpreted his mind and taking into account the various speeches that have been made in support of Prof. Shah's Resolution, it appears that many Members who are keen about adding some qualification other than those mentioned in the Constitution have in their mind some kind of an educational qualification. But none of them has been very precise : none of them has given me any idea as to what is the standard of education that they would like to prescribe in order that the candidate may become lawfully entitled to stand.

Now it seems to me that education can hardly be the sole qualification for membership of this House. If I may use the words of Buddha, he said that man requires two things. One is *Gyan* and the other is *Sheel*. *Gyan* without *Sheel* is very dangerous: it must be accompained by *Sheel,* by which we mean character, moral courage, ability to be independent of any kind of temptation, truthful to one's ideals. I did not find any reference to the second qualification in the speeches I have heard from Members who have supported Prof. Shah, But even though I myself am very keen to see that no Member enters this August Assembly, who does not possess *Sheel* in adequate degree, I find it extremely difficult to find any means or methods to ensure that valuable qualification.

Coming to the question of education, I do not wish to be understood that I regard ignorance to be a virtue: let that be quite clear. I regard education to be a very necessary qualification for possessing that degree of competence which is very necessary for the performance of one's duty. In this House there are people who, although they are not educated, are very competent to voice the grievances of the class whom they represent. I am sure about it. A more educated person would not be able to discharge that function, because he does not know and does not have that experience. But my friends who come from these classes and with whom I have naturally very great sympathy do not realise that what is more

necessary for bringing relief to the class of people whom they represent is not merely making speeches in this House but to suggest remedies for the removal of their grievances. To make speeches and to ventilate grievances is a very easy matter but to formulate remedies is a very difficult matter. It requires education and therefore education even from the standpoint of the backward classes, scheduled classes or tribal areas is a very necessary ingredient. How can we ensure it ? When I examined the suggestion that there ought to be some kind of educational qualification, I found that a proposition which is very good in theory or in its academic aspect cannot be given effect to without producing other evils. That is my difficulty. Where will you fix the standard? Will you say that only B.As. should be qualified to be Members of this House ? Supposing you do that, what is the result ? Members probably might know that there are many people who are educationally and intellectually far more competent than any graduate, although they have never been inside any college or university. There are any number of them. Are you going to shut out these people who have privately educated themselves, who are equally competent or better than B.As. or M.As., merely because they have not been able to obtain a certificate from a university ? I think that would be a very unfortunate result.

Take another consequence. In this country education is in the lowest grade. Not only that is so but for some reason which all of us know, education has not been universally spread among all the communities in this country. There are communities which are highly educated and there are communities where education is very, very low. Supposing you make B.A. or even matriculation as a standard, are you not making the membership of this House to be a monopoly of the few ? I fear that will be the consequence, Supposing you lower down your standard, say, for instance, to the fourth standard, to the study of the three Rs. or to literacy in order that no community may be excluded from the opportunity of sending its members to this House. Is That qualification any good? It is of no value at all.

Therefore, my submission is this, that it is a good thing. I am not going to outcry the feeling that there ought to be

some education in Members who come to represent their various constituencies in this House. But I just cannot see how you can give legal effect to it. Therefore, my suggestion is that this is a matter which had better be left to the people themselves, or to the political parties who will run the Government. I have no doubt about it that if the political parties, for their own particular purposes, do not attend to this matter, people themselves in course of time will attend to it. People are not going to allow persons who cannot discharge their functions properly in this House to be continued and returned for ever. They want results, They want their welfare to be attended to, and I am sure about it that they will realise that the only instrumentality through which they can achieve this purpose is to send good men to this House. Therefore, I think the proper course is to leave the matter to the people.

Now, Sir, my friend Prof. K. T. Shah in a somewhat desperate mood said that he knew the fate of this Resolution. That was because not that his Resolution was bad on merits but because he was the Mover of it. I like to assure my friend Prof. K. T. Shah that I have no such personal prejudice against him, and certainly I am not the man to reject a Resolution moved by a person because I happened to disagree with him or happened to dislike him. There are many people in this House who have personal prejudices—probably personal antagonisms—between themselves, but I am sure about it that no Member is going to allow these prejudices to stand in the way of doing the work which this House is always engaged in doing. Therefore, I hope that he will not carry such views in his heart when he finds me opposing his Resolution.

Sir, I do not think that any purpose would be served by forming a Committee because, as I find, nothing workable has emerged from the debate. If I had found that any concrete suggestion had emerged from the debate which it was possible to give effect to in terms of law, I certainly would not have hesitated to accept that recommendation. My friend Prof. K T. Shah said that he did not despair at this stage of finding a formula which he might give legal effect to. I was waiting to hear from him further some concrete suggestion and the method by which he would give

it a legal form, but he abruptly ended by saying that he did not despair of it, without throwing any light as to how the matter could be dealt with. Of course, this matter I know will be agitated on the Motion which I hope I shall be able to make during this session for the consideration of the People's Representation Bill, because it is there that this matter is being specifically put before the House, namely, the qualifications and disqualifications. And no matter what the desire of my friend Dr. Panjabrao Deshmukh may be, nothing can take away the liberty of the House to reagitate this question in the form of an amendment when the Bill comes. For the moment, I am afraid I cannot accept this Resolution.

Mr. Speaker : I was just placing before the House the amendments.

Shri Klamath (Madhya Pradesh)**:** Sir, as the question is coming up before the House later in the Session, I beg leave to withdraw my amendment.

The amendment was, by leave, withdrawn.

Mr. Speaker : Then there is an amendment moved by Shri S. N. Mishra. The question is:

That before the word "qualifications" the words "minimum educational" be inserted.

The motion was negatived.

Mr. Speaker: Then as regards the Resolution. The question is :

> "This House is do opinion that qualifications be laid down for membership of Parliament and Legislatures of States in the Union of India and that necessary steps be taken forthwith to give effect to them before the next election."

The motion was negatived.

(21)

*COOCH-BEHAR (ASSIMILATION OF LAWS) BILL

The Minister of Law (Dr. Ambedkar) : I beg to move for leave to introduce a Bill to assimilate certain laws in force in Cooch-Behar to the laws in force in the rest of West Bengal.

Mr. Speaker : The question is :

> "That leave be granted to introduce a Bill to assimilate certain laws in force in Cooch-Behar to the laws in force in the rest of West-Bengal."

The motion was adopted.

Dr. Ambedkar : I introduce the Bill.

** **The Minister of Law (Dr. Ambedkar) :** I beg to move :

> "That the Bill to assimilate certain laws in force in Cooch-Behar to the laws in force in the rest of West Bengal, be taken into consideration."

This is a very simple and short Bill, but having regard to the experience which we have had in the last whole week, I hope that I will be fortunate enough to get this Bill through before the House rises this evening.

Sir, the object of the Bill is to extend certain central laws relating to matters lying in List I and II to Cooch-Behar. The Bill proposes to give the Central Government power to appoint a day by notification in the Gazette as to when these laws will come into operation. There is only one exception to these laws, and that is with regard to the Muslim *shariat* law. With regard to that, power is given to the West Bengal Government to appoint the day so that on the day appointed by it the Muslim *shariat* law will come into operation. This Bill would have been unnecessary had Cooch-Behar become a merged State before 1949, because the House will remember that by

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*P. D., Vol. 5, Part II, 4th August 1950, pp. 291-292.

**P. D., Vol. 6, Part II, 1st December 1950, p. 1147.

Act LIX of 1949 which was passed, I believe, in the December Session of the Assembly, the whole lot of Central laws were made applicable to all merged States, but unfortunately at that time Cooch-Behar had not become a merged State. The order merging Cooch-Behar in West Bengal was issued by the President some time in January 1950, with the result that this Supplementary Bill, so to say, became necessary. I do not think that there is any clause which requires any further explanation.

The motion of Dr. Ambedkar was adopted.

Clauses 1 to 4, were added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Ambedkar : Sir, I move:

"That the Bill be passed."

Mr. Chairman : The question is :

"That the Bill be passed."

The motion was adopted.

(22)

* INDIAN TARIFF (FOURTH AMENDMENT) BILL

The Minister of Law (Dr. Ambedkar) : I am very much surprised that a point like this should have been raised by my hon. friend, Mr. Tyagi, who always in the House has said that he represents the most ignorant class in this country. It is a point which I think baffled many lawyers and I should have thought it was worthwhile for my friend to have left this matter in other hands. Now that the point is raised and you have expressed your own opinion that a point like this is important and must be decided, I propose to offer a few remarks on the subject. While I was listening to Mr. Tyagi's remarks, I thought he was confusing two different issues which must be kept quite separate. One is whether Parliament can delegate its authority. The second is whether Parliament should. The two are, in my judgment, quite different questions. We must apply very different considerations in coming to a conclusion on either one of them.

I will take the first question whether Parliament can delegate.

Shri J. R. Kapoor (Uttar Pradesh) **:** That is the only question.

Shri Tyagi : No.

Dr. Ambedkar : No. On that subject, so far as I am concerned, I have not the least doubt that Parliament can delegate its authority to other agencies subject to one condition and that condition is this that Parliament does not by such delegation completely divest itself of the authority to resume back the powers which it has delegated. A delegation for a purpose, a delegation for a time, and a delegation which permits Parliament to resume back their

* P. D., Vol. 6, Part II, 4th December 1950, pp. 1171-76.

authority is really no delegation at all, and therefore, Parliament is quite competent to enact a measure which conforms to this particular test. I think I cannot do better than read from a judgment of the High Court of Australia which deals with this matter. I will, of course, later on specifically cite an authority on this very point raised by the Bill. The case is Meakes *Vs.* Dignan, 46 Commonwealth Law Reports, page 117. This is what Mr. Justice Evat says :

> " The Statesmen and Lawyers concerned in the framing of the Australian Constitution, when they treated of 'legislative power' in relation to the self-governing colonies, had in view an authority which over a limited area or subject-matter, resembled that of the British Parliament. Such authority always extended beyond the issue by Parliament itself of binding commands. Parliament could also authorise the issue of such commands by any person or authority which it chose to select or create. "Legislative power" connoted the power to deposit or delegate legislative power because this was implied in the idea *of* parliamentary sovereignty itself. It was of course always understood that the power of the delegate or depository could be withdrawn by the Parliament that had created it, and in this sense Parliament had to preserve ' its own capacity intact'."

I can read many passages : but I do not wish to trouble the House. In deciding the question whether Parliament can lawfully delegate, the test to be applied is this : whether Parliament has kept its capacity intact to withdraw the authority which it has deposed in somebody else. Therefore, the question that has to be considered so far as the first question is concerned, whether Parliament can delegate, is to examine the causes in order to find out whether the test that has been laid down is fulfilled or not, whether there is anything in this Bill which prevents Parliament from resuming that authority. That is one point.

Now, on this very question I am glad to say that there is a ruling of the Privy Council reported in House of Lords, Appeal Cases, Volume 10, on page 282. The case is exactly on a par with the present one. There, the legislature of one of the Commonwealth countries passed a law permitting the Governor, which of course means the Executive, to levy a customs duty on certain articles which were not mentioned in the schedule attached to the Customs Act, some new article or similar article.

Shri Sondhi (Punjab) **:** Was it a fixed rate or a varying one? That is the only point.

Mr. Speaker : Let him proceed.

Dr. Ambedkar : No, that is not the point. Here, by this law, we are empowering the Executive to levy a customs duty on an article,—I am not concerned with the amount or its variability: an article which is not found in the schedule. That is the position. Here, the case is exactly on all fours. The Supreme Court of that country held that the law was *ultra vires* because it was a delegation. The Privy Council reversed the decision, and I shall read only one small passage from the judgment of the Privy Council on page 291. This is what the Privy Council said :

> " It is argued that the tax in question has been imposed by the Governor and not by the legislature, who alone had the power to impose it. But the duties levied under the Order in Council are really levied by the authority of the Act under which the Order is issued. The Legislature has not parted with its perfect control over the Governor and has power at any moment to withdraw or alternate the power which they have entrusted to him. Under these circumstances, their Lordships are of opinion that the judgment of the Supreme Court was wrong in declaring section 133 of the Customs Regulation Act of 1879 to be beyond the power of the legislature."

Pandit Balkrishna Sharma : May I submit, Sir.....

Mr. Speaker : Let us hear him patiently. If there is anything to say, I shall hear the hon. Member.

Dr. S. P. Mookerjee (West Bengal)**:** Which country is that?

Dr. Ambedkar : Some colony in Australia. If my hon. friend is anxious, I shall give it.

Shri Tyagi : It may be too small a country.

Dr. Ambedkar : The law is never small or big. Law is law. It is New South Wales.

Thus, so far as the first question is concerned, whether Parliament can delegate, my submission is this. So far as this condition is observed, namely that Parliament has kept within its hands the power to withdraw any such delegation, there can be no legal objection.

Before I proceed to the other point, I should like to say that I cannot see how this House is competent to decide that question. Surely, this is not a point of order' A point of order relates to rules of business. We are dealing here with the competency of the House. Supposing, Sir, this House or you decide that this was *ultra vires,* and notwithstanding that, Parliament proceeded to make the law, and the matter went to the Supreme Court, and the Supreme Court decided that the Act was *intra vires,* what a difficult situation would arise? Or supposing we proceed to deal with the point on the belief that it was *intra vires,* the matter went to the Supreme Court and the Supreme Court decided that it was *ultra vires,* we would be creating a great difficulty for ourselves. What I would like to say is this. All this attempt to raise questions regarding competency is really an attempt to convert this Parliament into a court. It is not a court. It is much better that justiciable matters had better be left to the Supreme Court to decide and we proceed on our understanding that whatever we are doing is within the competence of Parliament. Therefore, my submission is that this is not a point of order at all and should not be treated as such.

Then, I come to the other question whether Parliament should delegate. That is a matter which is entirely within the competence of this House : entirely, I make no reservation whatsoever. If in certain circumstances Parliament thinks that it should not delegate, well, Parliament should insist that it will not delegate, and that the matter shall be dealt with by Parliament itself. In certain circumstances, such as an emergency and so on, when Parliament cannot meet, and when executive action must be speedy, Parliament will, no doubt, consider it, and it may be that circumstances are such that a certain amount of delegation may be permitted. Therefore, this Bill has to be considered from this point of view. The second question is whether we should or we should not delegate. My friend Mr. Tyagi referred to Campion and referred to the opinion given by Mr. Campion on the question of taxation. I have no doubt in my mind that that is the correct attitude which Parliament should adopt in the matter of taxation. The power to tax is

3-00 P.M.

a very important power. It is really the one and only power which Parliament possesses to control the Government and to order the Government; and if Parliament were to give its permanent power of raising revenue to the Executive, the Executive would not care two hoots for Parliament. It is, therefore, very desirable that Parliament should keep within its own hands this power. The British Parliament keeps the Executive under control, if I have understood it correctly, in two ways. They have certain important Acts which are only Annual Acts, for which they never have permanent Acts. For instance the Army Act in England is an Annual Act. Every year, the Executive has to come before Parliament in order to get that Act renewed; and if they do not renew it, the whole army will have to be disbanded, because there will be no law governing it. The other measure by which the British Parliament controls the Executive is by reserving for annual levy, certain taxes, for instance, income-tax which forms a very large part of the resources of the British Government, and also of our Government. Therefore, there can be no quarrel on the question that Parliament should be very chary, very tardy, of handing over powers of taxation to the executive. It is perfectly open to Mr. Tyagi to say that in this matter delegation should not be made, or some other view may be taken. But so far as competency is concerned, I am afraid, he is out of court. After this matter was brought to our notice, I also came to the conclusion that, probably, from the point of view of financial propriety, from the point of view of maintaining the supremacy of Parliament, it was desirable to make some amendments in the clauses as they stood in the original Bill. I do not know whether I have got the thing with me now; but I am satisfied that there are two new provisions in the new amendments. One is this that the power to levy customs duty on articles not specified is only for a short period, up to the Budget Session, not indefinitely, for all times. Whenever the Budget Session comes, any customs duty levied by the Executive under this Bill will automatically lapse, and the matter will then be dealt with by Parliament, as Parliament deals with any other financial measure. I should have thought that that was a great improvement in

the Bill as it stands, and Parliament should not have any quarrel about proposing a legislation of this sort.

***Pandit Thakur Das Bhargava :** .....After all this we must revert to our own Constitution to decide the point. As far as our Constitution is concerned this House is not competent to delegate any such authority to the Ministers.

Dr. Ambedkar : There is no bar; we have plenary powers.

Shri Santhanam : Will the hon. Member read article 286?

Mr. Speaker : Matters would be shortened if the hon. Member is allowed to proceed with his argument in his own way. Let us hear him first.

Pandit Thakur Das Bhargava : At this moment we need not be wedded to any theory. I am not wedded to any theory. I only place these facts for your consideration, so that you may consider them before coming to a final decision.....

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* P.D., Vol. 6, Part II, 4th December 1950, p. 1178.

(23)

SOCIETIES REGISTRATION (AMENDMENT) BILL

***Shri Sidhva** (Madhya Pradesh) **:** My Bill refers to amendment of the Societies Registration Act, 1860. This is a very simple Bill.

The Minister of Law (Dr. Ambedkar) : May I, with your permission, make a statement on the Bill, so that my friend Mr. Sidhva may be in a position to determine the course that he should follow?

Last time when the Bill was before the House I promised that I would enquire from the various States as to what they thought about Mr. Sidhva's measure and that I would communicate to Mr. Sidhva as well as to the House the replies received from the various States. Now the position is this.

So far as Part A States are concerned, they are desirous that the improvement suggested by Mr. Sidhva should be made, but they have made this reservation that they would like to initiate legislation themselves. The Government of India, on a further consideration, do not think that, in view of the wishes expressed by the Governments of the Part A States, they should themselves undertake all-India legislation. They do not think that this is a matter of such character as to require common uniform legislation throughout India. They are prepared to, leave the matter to the different States. So far as Governments are concerned, Part A States must be excluded from this Bill.

In regard to Part B States, they have no such law and consequently the Government of India did not consult them. The standing rule which the Government of India observe in the matter of initiating legislation falling within the Concurrent List is of a very longstanding character, namely, that they shall not undertake legislation without the consent

* P. D., Vol. 7, Part II, 12th December 1950, pp. 1560-65.

of those States. Therefore, what remains for us to operate upon is States in Part C. Therefore, if Mr. Sidhva wishes to proceed with this Bill he must agree to confine this particular measure to Part C States. That is one limitation which I am afraid we shall have to insist upon.

Then, the other thing that I find is this, that Mr. Sidhva's Bill will require considerable amendment—almost every clause of the Bill requires amendment. As I said last time, I am myself in favour of the legislation and I do not wish to obstruct it in any way. In fact, I have here before me drafted such amendments as I think are necessary to make in this Bill. I am quite prepared to pass on those amendments to Mr. Sidhva so that he may himself move them and take the credit for initiating this legislation.

Therefore, my suggestion to Mr. Sidhva was this that he might move for the postponement of the consideration of the Bill to the next session, have these amendments from me, give notice of the amendments himself, and, next time when the Bill comes up, move them. And I promise that I shall accept the amendments that I myself am suggesting, if that course is agreeable to him.

Shri Tyagi (Uttar Pradesh) **:** It is not a very great promise.

Dr. Ambedkar : As I said, I am committing myself to the acceptance of these amendments, so that the Bill may not have the defects which we certainly find it is full of now. It is for Mr. Sidhva to decide what course he would follow. I thought I might help him by this statement.

Shri Sidhva : I was glad to hear the statement of my Hon. friend the Law Minister. What I was suggesting was that my Bill was a very simple Bill, namely, an addition to Section 4 of the Societies Registration Act. As the Law Minister has rightly stated, the Part A States have sent their opinions favouring the adoption of my Bill, but they said that they would themselves like to initiate in making the legislation. ..... I hope that Dr. Ambedkar would be good enough to accept my suggestion. We do not want to wait any longer to

see that the fraudulent procedure that is being practised by various societies is continued. Now that the Hon. Law Minister has accepted the provisions of the Bill, there is no difficulty. The question is only of time and I hope the Law Minister will accept my suggestion.

I therefore beg to move :

"That the Bill further to amend the Societies Registration Act, 1860, be taken into consideration."

Dr. Ambedkar : I am sorry. I think my hon. friend Mr. Sidhva has misunderstood me. He is probably under the impression that while accepting his Bill as it stands, I am seeking to amend some other provisions of the original Act. That is not so. I am amending his amendments because I find it impossible to accept the Bill as drafted by him without the amendments that I am suggesting. Therefore, as I said, I have not the least objection for the Bill going through provided the amendments I am suggesting are made in the Bill of Mr. Sidhva. Here are the amendments I am prepared to hand over the papers to Mr. Sidhva, but of course, there has been no notice of these amendments and I do not know what view the House will take, but as I said, he can take the amendments, give notice of them and have the matter discussed.

Mr. Speaker : I was just thinking as to whether—I am not clear yet—whether we could get a priority in respect of this Bill on the assumption that the consideration motion is moved and then have the further consideration postponed.

Dr. Ambedkar : That may be done.

Mr. Speaker : Perhaps he will be coming in ballot. The only difficulty is that he loses the priority.

Dr. Ambedkar : If I may say so, the Bill is very small and I am speaking without the authority from Government, but I do not think it would be difficult for me to persuade Government to give, for instance, whole day to Mr. Sidhva from one of the Government days in the next Budget Session.

Mr. Speaker : There is another alternative to it also; supposing instead of taking it now, we postpone the consideration of this Bill say, at five minutes to five, and we

may then take up the Bill and leave it as part-heard, so that it may take care of itself.

An Hon. Member : Dr. Ambedkar will accommodate Mr. Sidhva on a Government day.

Dr. Ambedkar : I can arrange that.

(24)

** REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

***The Minister of Law (Dr. Ambedkar) :** I beg to move for leave to introduce a Bill to amend the Representation of the People Act, 1950.

Mr. Speaker : The question is :

"That leave be granted to introduce a Bill to amend the Representation of the People Act, 1950. "

The motion was adopted.

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* **The Minister of Law (Dr. Ambedkar) :** I beg to move :

"That the Bill to amend the Representation of the People Act, 1950, be taken into consideration."

This bill has two objectives. One is to provide for the representation of Part C States in the Council of States. The second is to enact the provisions made by the Representation of the People (Amendment) Ordinance, 1950. I propose, first to deal with the first objective of the Bill, namely, to provide for the representation of Part C States, hon. Members will remember that under article 80, clause (5) this matter is left to be dealt with and determined by Parliament by law. There is no provision in the Constitution itself as to how Part C States should be represented in the Upper Chamber. As I said the matter is left to the discretion of Parliament to deal with it by such law as Parliament may deem fit. It is because of this obligation which has been cast upon Parliament that the present Bill has been brought forth. In dealing with this particular matter, it is obvious that three questions have to be dealt with. The first is the nature of the electorate. What

* P. D., Vol. 6, Part II, 20th November 1950, p. 267.

** P. D., Vol. 7, Part II, 12th December 1950, pp. 1678-83.

is to be the electorate which is to represent or elect the representatives of Part C States in the Upper Chamber at the Centre? The second is the distribution of the seats which have been assigned to Part C States by the Fourth Schedule of the Constitution. And thirdly we have to consider the method of representation, whether they should be elected, by election, by nomination or by some other method.

Now, the first question, namely the question of the electorate is dealt with in clause 9 of the Bill and it is to that clause that I propose first to draw the attention of the House. In considering this question, the question of the electorate, the House will remember that the Constitution has laid down the general principle for the composition of the Upper Chamber. That principle will be found in article 80, clause (4). That clause says though it is confined to the representation of Part A and Part B States, that the representation to the Upper Chamber shall be by indirect election by Members of the Legislatures in Part A and Part B States, That being so, in devising a method for securing representation to Part C States in the Upper Chamber, it is necessary and obligatory to follow that principle namely, that the representation shall be by the indirect method. Now, in following this method, there is one difficulty that stands up at the outset.

So far as Part A and Part B States are concerned, the electorate already exists, namely, the Assemblies in the various Part A and Part B States. With regard to Part C States, there are no such Assemblies in existence and one does not know when Parliament will undertake any kind of Legislation to provide a more popular method of administering Part C States. Consequently, we must proceed upon the hypothesis that no Legislative bodies exist in Part C States, nor are they likely to come into being by the time the elections take place. The question, therefore, is what should be the nature of the electorate. Obviously, the only other method that comes to one's mind is to resort to the existing local bodies in all Part C States, such as municipal committees, town committees, village *panchayats*

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and so on and so forth, and to permit members of these local bodies to be registered as voters. It was, however, found that probably this method of election may not provide a sufficiently large constituency. We have no idea as to how many municipal committees, town committees and village *panchayats* may be existing in various Part C States. It may be that in some Part C States there may be a plethora of them, and it may be that in some other Part C States there may be a great paucity of them. Consequently, in order to create a solid electorate, it is felt that in addition to the membership of these local bodies, it would be desirable if the franchise was extended to persons who have undergone some University examination. Therefore, in addition to membership to the local bodies, it is proposed, in this bill that matriculates or persons holding other equivalent qualifications may also be permitted to be registered as voters, provided they have the necessary qualification on the qualifying date, and have put in the necessary period of residence during the qualifying period. That is the general provision contained in clause 9 which seeks to introduce after section 25 of the original Act, new sections 25A, 25B, 25C and 25D. This is the nature of the electorate that this Bill proposes to bring into existence for the purpose of electing representatives to Part C States in the Upper Chamber.

I will take up the other two questions which I said, necessarily require consideration. The second question is nomination *versus* election. This mater is dealt with in clause 4 of the Bill. In this connection, it is felt that so far as the two States of Manipur and Tripura are concerned, election will not be possible, for the simple reason that so far as these two States are concerned, there are hardly any local authorities existing there. Therefore, the basis of the general proposal which is introduced by clause 9 does not exist at all so far as these two States are concerned. Tripura is really a tribal area. Manipur is a very backward area. There are hardly any of these local bodies and organisations. The educational status of these two States is also very backward. Consequently, it is not hoped that even if the educational qualification was introduced, it would be possible to obtain a sufficiently large

electorate to permit of elections being introduced in the representation of these two States. Consequently it is felt that the only course left is to secure the representation of these two States by nomination by the President and it is proposed that their nomination should alternate at the end of a two year period—once a representative of Manipur would be nominated by the President for the first two years and in the second two year period a representative of Tripura would be nominated. In the rest of Part C States the representation would be by election.

A further question, as I said, arises, namely the distribution of the seats. The House will remember or it can see by reference to Schedule IV that that Schedule in three cases has given one seat to two States. Those three cases are Manipur and Tripura, Himachal Pradesh and Bilaspur, which together have one seat and Ajmer and Coorg have together one seat.

There are two methods for regulating the representation of these states which have one seat jointly between them. One is to treat them as one constituency and the other is to treat them as two different constituencies and give them alternate representation. The case of Manipur and Tripura has already been disposed of, because the question of election does not arise there. That is a case which is governed by nomination. With regard to Ajmer and Coorg it is proposed that they should be represented by election separately in rotation—once the seat should be filled by election in Ajmer and the second time it should be filled by representation from Coorg. With regard to Himachal Pradesh and Bilaspur it is proposed that the two States should be treated as one constituency and they should in a joint election elect one representative.

The House will no doubt say that we have given one treatment to Ajmer and Coorg and a different treatment to Himachal Pradesh and Bilaspur. The argument is apparently correct. But I do not see how it is possible to treat these two series of States on a common footing. It will be realised that Ajmer and Coorg are not territorially contiguous. It will also

be realised that their cultural outlook, their mode and manner of life, their economic problems are altogether different and distinct. It can hardly be said that a representative of Ajmer could very well represent the problems and difficulties of the people of Coorg or *vice versa*. But with regad to Himachal Pradesh and Bilaspur the two are conguous : in fact it is only by some accident, which I am unable for the moment to understand or to explain, that the States Ministry decided to keep the two in two distinct watertight compartments. I should have thought that the two could have been amalgamated into one. I have no doubt that that will happen : perhaps it may happen long before the election takes place. Therefore I do not see any justification why the principle of divisive constituency, which has been adopted in the case of Ajmer and Coorg for the circumstances which I have mentioned, must necessarily logically and as a matter of categorical imperative apply to Himachal Pradesh and Bilaspur.

Therefore, what is proposed is that Manipur and Tripura would have separate electorates but their representation would be regulated by nomination by the President for a period of two years in rotation. With regard to Himachal Pradesh and Bilaspur they would form one constituency and in a joint election elect one representative. With regard to Ajmer and Coorg the provision is that for a period of two years Ajmer will enjoy the seat reserved for two and subsequently Coorg will enjoy the seat which is reserved for both.

Those are the provisions, which we have made in the Bill with regard to the representation of Part C States. As I said at the outset, this Bill had a double objective. One was to make provision for the representation of Part C States in the Upper Chamber. The second objective was to give the effect of law to the provisions contained in the Ordinance.

I will briefly explain to the House why it became necessary for Government to issue this Ordinance. As the House will remember, at one time Government felt that elections could be held in the months of April and May and they were very keen about it and wanted to do everything possible to give

effect to that intention. On the examination of the circumstances, as I then said, it was found that in certain areas electoral rolls were not ready and in certain areas constituencies had not been delimited. If we had allowed the original provisions contained in the People's Representation Act 1950 what would have been the position? The position would have been this. Under the Original Act the Election Commissioner is bound to publish preliminary electoral rolls—I am using the words " preliminary electoral rolls " constituency-wise. That was the first step in the process of election. After that was done two or three processes had to be undergone. One was the inviting of claims and objections, the second was to have the claims and representations dealt with by some authority judicial or otherwise and to have them disposed of: and thirdly, to enter all the corrections consequent upon the decision of the revising authority into the electoral rolls and then to publish them finally.

Speaking for the moment and taking into consideration the time that would have been necessary to go through these processes, the position would have been this. After the constituencies were delimited, certainly three weeks or one month ought to be given to the electors to make their claims and objections. You could not fairly give less than that time. Thereafter, at least two months would be necessary for the revising authority, I am giving a very conservative estimate, two months would be necessary for the revising authority to dispose of claims and objections. That means three months. Add one more month for revising the electoral rolls in the light of the decision of the revising authority. That means four months. Assuming that the preliminary electoral rolls were prepared by the end of this month, which I don't think is a very sanguine hope—but supposing that was so—it is quite obvious that following the principles embodied in the original People's Representation Act, the final electoral rolls could not have been published even by the end of April or May. That meant that if we had followed literally the provisions contained in the original Act, the elections could not have taken place in the month of April and May. As

Government were very keen in having the elections in April and May, Government felt that that would have been possible only if the process was reversed. If claims and objections were invited on the basis of electoral rolls prepared for units or for areas, and they were disposed of, and after they were disposed of electoral rolls on the basis of constituencies were made, perhaps the time that would be utilised after the constituency-wise electoral rolls were prepared could be used in the beginning so that the process of claims and objections and revisions could be got rid of and possibly the elections could have taken place in the month of April and May. It was from this point of view that Government felt that the process might be reversed, that is to say, claims and objections might be invited on the basis of preliminary electoral rolls not prepared on the basis of constituencies but on the basis of area.

That is what the Ordinance did. Now, it might be asked that since the date of the election has been postponed, is it desirable to give effect to the Ordinance? The answer to that is simple: a large part of the work which is required to be done by the Election Commissioner in the matter of the preparation of the rolls has already been done, and if the Ordinance does not become law, all that work will have to be thrown overboard and the Election Commissioner would have to begin his work *de novo. (An Hon. Member:* Reverse gear). Reverse gear, as my friend says. I don't think the House will desire that such a thing should happen. I am not merely considering the question of time but also the question of money which Government has spent over the work that has already been done. We have taken care in the Bill that the provisions of the Ordinance would apply only for the first elections so that in the subsequent elections the provisions of principal Act will govern the conduct of elections and the preparation of the electoral rolls. That is why we are seeking the permission of the House to give effect to this Ordinance.

The other provisions in the Bill are purely consequential—changing of qualifying date and qualifying period, and so on and so on. I don't think I need detain the House over them.

The House will be able to see for itself what those amendments are.

Mr. Speaker : Motion moved :

> "That the Bill to amend the Representation of the People Act, 1950, be taken into consideration. "

***Shri Sarwate** (Madhya Bharat) **:** I may in this connection refer to article 240 of the Constitution which says that " as soon as possible...."

Dr. Ambedkar : Where is " as soon as possible " ?

Shri Sarwate : It was meant when the article was framed.

**** Shri Kamath :** So far as the present Bill is concerned and so far as the Member for Manipur and Tripura in the Council of States is concerned, this Bill is silent on the point whether the President will nominate a Member who has got experience of these matters or has got a special knowledge of these matters. I would like Dr. Ambedkar to throw some light on this, but my impression is that the nominated Member will be in addition to the 12 which are referred to in clause (1) (a) of article 80 of the Constitution.

Dr. Ambedkar : He would be out of the 238.

Shri Kamath : I am glad that Dr. Ambedkar has given us the correct interpretation of this article. Therefore it is 13. Mr. Tyagi tells me that it is a bad number; I do not know whether it is really bad.

***** Mr. Speaker :** I was referring to all the Members, from Part A, Part B and Part C States, because all are interested in a proper democratic set-up. I mentioned particularly those from Part C States because it is only those that are most affected by this Bill. That is why I suggested that they should

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* P. D., Vol. 7, Part II, 13th December 1950, p. 1711.

** *Ibid.,* p. 1716.

***Ibid.,* 14th December 1950, p. 1779-80.

be given a fuller chance. That was the point But all should meet. So, if that is acceptable I think I may put off this matter and go to the next item of business. Is that agreeable?

The Minister of Law (Dr. Ambedkar) : I am prepared to accept that suggestion.

Shri J.R. Kapoor : May I complete what I wanted to say?

Mr. Speaker : Order, order. He will now have ample opportunity of talking, and more fully, in the informal conference. The Hon. the Law Minister will hear him more fully than what he can do now. So we might adjourn this matter. But when shall we take it up? It is an important matter.

An hon. Member : Day after tomorrow.

Mr. Speaker : The Hon. the Law Minister might say when we shall take it up. Hon. Members will see that we intend to finish the session by the 20th.

An hon. Member : By the 21st.

Mr. Speaker : Well, the 21st. But unless you have the break from the 20th. it wont't be possible.

Shri Sondhi (Punjab) **:** 21st is a standby.

Mr. Speaker : Yes.

Dr. Ambedkar : I suggest Saturday either morning or evening—after the House rises or before it meets.

Mr. Speaker : I am not talking of the time for the conference. They can meet at any time. I was asking as to when we are to take up this business again.

Dr. Ambedkar : On Monday.

Mr. Speaker : I have no objection. Then let us put it off to Monday the 18th by which time we expect something agreed will come up. I am really sorry for interrupting Mr. Kapoor's speech, but then the House will be thankful to him for having agreed to stop his speech.

REPRESENTATION OF THE PEOPLE (NO. 2) BILL

*** The Minister of Law (Dr. Ambedkar) :** I beg to move for leave to introduce a Bill to provide or the conduct of eections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications and disqualifications for membership of those Houses, the corrupt and ilegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

Mr. Speaker : The question is :

> " That leave be granted to introduce a Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the correct and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such election."

The motion was adopted.

Dr. Ambedkar : I introduce the Bill.

REPRESENTATION OF THE PEOPLE (AMENDMENT) *BILL—contd.*

****Mr. Deputy Speaker :** Shall I take the Employers' Liability Bill or People's Representation Bill.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru) : People's Representation Bill is a part-heard Bill. We will take that now.

The Minister of Law (Dr. Ambedkar) : Sir, you will remember that while the debate on the motion for the consideration of the Bill was going on last time the hon. the Speaker was pleased to make a suggestion that the debate might be adjourned in order to give opportunity to me and

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* P. D., Vol. 7, Part II, 18th December 1950, pp. 1834-35.

** P. D., Vol. 7, Part II, 21st December 1950, pp. 2209-10

the Members interested in Part C States to meet together and to evolve some kind of a scheme over which there might be agreement between myself and the representatives of the Part C States.

[MR. SPEAKER *in the Chair*]

I accepted the suggestion and thereafter had one or two meetings with Members of the Part C States as well as other Members of the House who felt a certain amount of interest in this Bill. As you will recall, Sir, when the debate was going on, it was found that there were three points of difference between myself and the Members who spoke for Part C States. The three points were:

1. Indirect system of election;
2. Nomination of Manipur and Tripura; and
3. Representation by rotation.

I am happy to state that it has become possible by exchange of views to arrive at a formula whereby it has become possible for me to eliminate from the Bill the provisions relating to the indirect system of election from the municipalities, local boards, village panchayats etc. It has also been possible for me to eliminate the provision regarding the representation of Manipur and Tripura through nomination. It is only with regard to the third point *viz.,* representation by rotation that it has not been possible to find a way out and it will therefore be a part of the original Bill. Now in accordance with this agreement, I have given notice of certain amendments which are already in the hands of Members. It will be seen that in place of the indirect system of election. I now propose to ask the House to agree to assist in creating an electoral college by exercise of adult suffrage and allow these electoral colleges to help the representatives which have been allotted to them by schedule 4 of the Constitution. This system of creating an electoral college for the purpose of sending representatives to the Upper Chamber by election is also proposed to be extended to Manipur and Tripura.

With regard to the other part of the Bill *viz.,* that part which deals with the enactment of the Ordinance it will of course remain and so far as the debate that took place the

other day on the provisions of the Bill is concerned, I did not find that the House was in any way opposed to that part of the Bill. Therefore, having regard to this position, I do not think there is any necessity for Mr. Kamath to insist upon his amendment to send the Bill to a Select Committee. It is now clear that the time and the date that he had fixed in his amendment has already passed and consequently the ground under his amendment has already been covered but apart from that if I had been called upon to speak on that day on his amendment, I would no doubt have said that it was not possible for me to accept the amendment in view of the fact that the provisions of the Bill relating to the Ordinance were so peremptory that without delay they had to have their legal form which the Constitution requires us to give. I therefore plead that the Bill may be taken into consideration without referring it to a Select Committee and that the amendments which I have proposed in the Supplementary List No. 6 to the Revised Consolidated List may be taken into consideration.

Mr. Speaker : I put the motion to the House. I believe after a long discussion, it is not now necessary to go on with further discussion of this Bill. I shall put it clause by clause and instead of having a general discussion hon. Members will get an opportunity of having their say when the clauses come before the House. Let us now specifically go to the very clauses to which Members may have any objection.

***Mr. Speaker**: As there are proposed changes in the various clauses, hon. Members will be keeping a watch so that I may not pass over any amendment.

Clause 2.—(*Amendment of the long title*)

Amendment made:

For clause 2, substitute the following:

" 2. *Amendment of the long title, Act XLIII of 1950.*— In the long title of the Representation of the People Act, 1950 (hereinafter referred

* P. D., Vol. 7, Part II, 21st December 1950, p. 2212.

to as the said Act), after the words 'the preparation of electoral rolls' the words and letter 'the manner of filling seats in the Council of states to be filled by representatives of Part C States' shall be inserted."

—[*Dr. Ambedkar.*]

Dr. Ambedkar : It is merely to bring the Preamble in line with the purpose of the present Bill.

Mr. Speaker : The question is:

"That clause 2, as amended, stand part of the Bill."

The motion Was adopted. Clause 2, as amended, was added to the Bill.

Clause 3.—(*Amendment of Section 2*)

Amendment made:

In clause 3, for the proposed new clause (cc) of section 2 of the Representation of the People Act, 1950, substitute the following:

" (cc) ' Council of States constituency ' means a constituency provided by order made under section 27C for the purpose of election of members to the electoral college for any Part C State or group of such States referred to in section 27A."

—[*Dr. Ambedkar,*]

Dr. Ambedkar : Sir, this is merely to bring it in line with the new scheme of having elections through electoral colleges.

Mr. Speaker : The Bill is introduced as a whole and therefore every clause is before the House. If any hon. Member is keen to move any amendment to this clause, I think the Chair is bound to put the clause before the House.

Shri M. A. Ayyangar : Unless the mover withdraws.

Mr. Speaker : He cannot withdraw in that manner after once having placed the whole Bill before the House. The clause has to be negatived by the House. But then I was following this informal procedure, simply for shortening the discussion. That is all I take it that Mr. Kamath is not moving his amendment.

Shri Kamath : That is correct, Sir.

Mr. Speaker : That means that none of the amendments is going to be moved. The question is:

"That clause 4 stand part of the Bill."

The motion was negatived.

Mr. Speaker : The question is:

" That clauses 5 and 6 stand part of the Bill."

The motion was negatived.

Clauses 7 and 8 were added to the Bill.

Mr. Speaker : The question is :

" That clause 9 stand part of the Bill."

The motion was negatived.

Clause 10 was added to the Bill.

New clauses 10A and 10B.

*** Dr. Ambedkar :** Sir, I move:

After clause 10, insert the following new clauses:

"10A. *Amendment of section 27, Act XLIII of 1950.*—In sub-section (4) of section 27 of the said Act, after the figure ' 23' the brackets and words '(excluding the Proviso)' shall be inserted.

10B. *Insertion of new Part IV-A in Act XILII of 1950.—After* Part IV of the said Act, the following Part shall be inserted namely:

PART IV-A

Manner of filling seats in the Council of States to be filled by representatives of Part C States.

27A. Constitution of electoral colleges for the filling of Seats in the Council of States allotted to Part C States.—(1) For the purpose of filling any seat or seats in the Council of States allotted to any Part C State or group of such States in the Fourth Schedule to the Constitution there shall be an electoral college for each such State or group of States:

Provided that for the purpose of filling the seat allotted to the States of Ajmer and Coorg there shall be an electoral college only for the State of Ajmer:

Provided further that for the purpose of filling the seat allotted to the States of Tripura and Manipur there shall be an electoral college for each of the said States.

* P. D., Vol. 7, Part II, 21st December 1950, pp. 2215-20.

(2) The electoral college for each State or group of States specified in the first column of the Fifth Schedule shall consist of the number of members specified in the second column thereof opposite to that State or group of States to be chosen by direct election.

(3) The electoral college first constituted under this Act for any State or group of State; shall be reconstituted by a fresh election every time when there is a general election held in that State or group of States for the purpose of election of members to the House of the People, and on every such reconstitution the electoral college, for that State or group of States functioining immediately before such reconstitution shall be deemed to be dissolved and the electoral college so reconstituted shall be the electoral college for such State or group of States, as the case may be for the purposes of this Act.

(4) Any casual vacancy in the seat of a member of an electoral college shall be filled by election held in the constituency concerned in the manner in which the election of that member to such seat was held.

27B.—Council of States constituencies.—For the purpose of election of members to the electoral college for any State or group of States there shall be the constituencies provided by order under section 27C and no other constituencies.

27C. *Delimitation of Council of States Constituencies.*—As soon as may be after the commencement of this Act, the President shall by order determine—

(*a*) the constituencies into which each State or group of States specified in the first column of the Fifth Schedule shall be divided for the purpose of election of member to the electoral college for such State or group of States;

(*b*) the extent of each constituency; and

(*c*) the number of seats allotted to each constituency.

27D. *Power to alter or amend orders.*—The President may, from time to time, after consulting the Election Commission, by order, alter or amend any order made by him under section 27C.

27E. *Procedure as to orders delimiting constituencies.*—(1) The Election Commission shall,—

(*a*) in consultation with the Advisory Committee set up under subsection *(1)* of section 13 in respect of each Part C State specified in the first column of the Fifth Schedule, other than Bilaspur and Himachal Pradesh, formulate proposals as to the delimitation of constituencies in that state under section 27C, and

(*b*) in consulation with the Advisory Committee set up under the said sub-section in respect of Himachal Pradesh, formulate proposals as to the delimitation of constituencies in the states of Bilaspur and Himachal Pradesh under section 27C,

and submit the proposals to the President for making the order under the said section 27C.

(2) Every order made under section 27C shall be laid before Parliament as soon as may be after it is made and shall be subject to such modifications as Parliament may make on a motion made within twenty days from the date on which the order is so laid.

27F. *Electoral rolls for Council of States constituencies.*—(1) For the purpose of election of members to the electoral college for any State or group of States there shall be an electoral roll for every Council of States constituency in that State or group of States.

(2) So much of the roll or rolls for any Parliamentary constituency or constituencies for the time being in force under Part III as relate to the areas comprised within a Council of States constituency shall be deemed to be the electoral roll for that Council of States constituency.

27G. *Termination of membership of electoral college for certain disqualifications.*—If a person who is a member of an electoral college becomes subject to any disqualification for membership of Parliament under the provisions of any law relating to corrupt and illegal practices and other offences in connection with election to Parliament he shall thereupon cease to be such member of electoral college.

Manner of States allotted to Part C States.—Save as otherwise provided in section 27-I the seat or seats in the Council of States allotted to any Part C State or group of such States in the Fourth Schedule to the Constitution shall be filled by a person or persons elected by the members of the electoral college for such State or group of States in accordance with the system of proportional representation by means of the single transferable vote.

27-I. *Special provisions for the filling of the seats in the Council of States allotted to the States of Ajmer and Coorg and the States of Tripura and Manipur.*—(1) The seat in the Council of States allotted to the States of Ajmer and Coorg in the Fourth Schedule to the Constitution shall be filled by a person elected by the members of the electoral college for the State of Ajmer and by the elected members of the Coorg Legislative Council in rotation, that is to say, at the first general election and at every second subsequent biennial election the said seat shall be filled by a person elected by the members of the electoral college for the State of Ajmer and at the first biennial election and at every third subsequent biennial election the said seat shall be filled by a person elected by the elected members of the Coorg Legislative Council.

(2) The seat in the Council of States allotted to the States of Tripura and Manipur in the said Schedule shall be filled by a person elected by the members of the electoral college for the State of Tripura and by the members of the electoral college for the State of Manipur by rotation, that is to say, at the first general election and at every second

subsequent biennial election the said seat shall be filled by a person elected by the members of the electoral college for the State of Tripura and at the first biennial election and at every third subsequent biennial election the said seat shall be filled by a person elected by the members of the electoral college for the State of Manipur.

(3) The casual vacancy in the seat allotted to the States of Ajmer and Coorg or to the States of Tripura and Manipur shall be filled by election in the State in which the election to fill the seat was held at the last preceding general or biennial election, as the case may be.

(4) Every election held under sub-section *(1),* sub-section (2) or sub-section (3) shall be held in accordance with the system of proportional representation by means of the single transferable vote.

27J. *Replacement of electoral colleges by bodies created under article 240 to function as legislatures.*—Notwithstanding anything contained in the foregoing provisions of this Part—

(*a*) if a body is created by Parliament by law under article 240 for any of the States specified in the first column of the Fifth Schedule, other than Bilaspur and Himachal Pradesh, to function as a legislature for that State, then after such body has been constituted it shall not be necessary to constitute or reconstitute any electoral college for that State and on the constitution of such body any electoral college for the time being functioning, for such state shall be deemed to be dissolved, and section 27H or section 27I, as the case may be, shall in its application to that State, have effect as if for any reference to the electoral college for such State in that section there were substituted a reference to the body so created for such State.

(*b*) if any such body as aforesaid is so created for each of the States of Bilaspur and Himachal Pradesh, then after both such bodies have been constituted, it shall not be necessary to constitute or reconstitute any electoral college for those States and on the constitution of both such bodies any electoral college for the time being functioning for those States shall be deemed to be dissolved, and section 27H shall, in its application to that group of States, have effect as if for the reference to the electoral college for the said group of States in that section there were substituted a reference to the bodies so created for those States; and

(*c*) if any such body as aforesaid is so created for the State of Coorg, then on the constitution of such body section 27-I shall, in its application to that State, have effect as if for any reference to the Coorg Legislative Council in that section there were substituted a reference to the body so created for such State'."

*** Mr. Speaker :** Amendment of Shri Deshbandhu Gupta moved :

> In the amendment by Dr. Ambedkar, in the proposed new clause 10B, Before the existing first Proviso to sub-section (1) of the proposed new section 27A of the Representation of the People Act, 1950, insert the following new Proviso :
>
> " Provided that for the purpose of filling the seat allotted to the State of Delhi, the elected members of all local bodies such as Municipal Committees, District Board and notified area committees and members elected to the Chief Commissioner's Advisory Council and the House of People shall form the electoral college."

Dr. Ambedkar : With regard to the amendment moved by my hon. Friend, Shri Deshbandhu Gupta, there are one or two points to which I would like to make a reference. In a way this amendment read with the other provisions which the House has now passed for the purpose of making provision for elected representatives of Part C States to the Upper Chamber " appears to be somewhat incongruous. There we are creating an electoral college elected by adult suffrage. Here we are retaining the original scheme contained in the Bill, namely, that the representation should be by indirect means through local authorities, but I do not think that is a very grave objection to the acceptance of this proposal in view of the fact that my hon. Friend, Shri Deshbandhu Gupta, told us this morning that all these bodies are in a very short period going to be democratized and are likely to be elected by audit suffrage. In view of that, it is a mere matter of fancy, it seems to me, whether you would take the municipality or the local board as a basis for election or whether you would go down and dilute it further and make it as the basis for election. Therefore fundamentally I have no objection to his proposal.

There are two other points to which I would like to make a reference. In view of the fact that he is making local authorities as instruments for election, it does appear that there are certain local authorities in the Delhi province where the members are not elected but are nominated. Take, for instance, the New Delhi Municipality. I understand that there

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* P. D., Vol. 7, Part II, 21st December 1950, pp. 2231-33.

is a very large element of nomination there and I do not suppose that my hon. Friend, Shri Deshbandhu Gupta, will insist that the persons who are nominated to the Delhi Municipality although they have not been elected by adult suffrage are from the point of view of intelligence, from the point of civic sense going to be in any way inferior to persons elected, by other municipalities. I would therefore suggest that I should be quite prepared to accept his amendment provided he agrees to delete the word 'elected' from his clause.

The second thing that I would suggest to him, which I think is a mere matter of drafting aesthetics, is that it would be better if his proposition was to be put in as sub-clause (5) of section 27A rather than as a proviso. I have gone through the whole thing. It seems to me that it would be much neater to put this as sub-clause (5). Subject to this, I have no objection to accept it.

Shri Deshbandhu Gupta : May I point out, Sir, that I want to have one clarification from the Hon. Minister, when he says that I should agree to delete the word ' elected ', does he realise that there is a big element of nomination in other local bodies also? If the idea is only to have representation for New Delhi, which is a wholly nominated body, then, the purpose would be better served by having non-official members of the New Delhi Municipal Committee. There are 7 or 8 members. In Old Delhi, there are 50 elected and 10 nominated members. In Shahdara there are 10 elected and 5 nominated members. Does he want that all these nominated Members also should be given the right to vote ?

Dr. Ambedkar : I do not see any reason to make any discrimination.

Shri Deshbandhu Gupta : I stick to the word 'elected'. But I am prepared to include non-official members of the New Delhi Municipality.

Dr. Ambedkar : All right.

***Mr. Speaker :** So then, I am afraid, looking at the trend of the discussion, I must put the amendment of Mr. Deshbandhu Gupta to the House.

Dr. R. U. Singh : But Sir, my questions have not been answered. I wanted to know two things, What is the basis on which the Legislative Councils will be elected as the populations electing the members will be very low. And secondly, whether the Hon. Minister will be pleased, in view of the points that I had stressed, to reconsider the position. As I said it is intrinsically wrong and this is a hotch-potch arrangement for which there is no justification, I would like to hear what Dr. Ambedkar has to say.

Mr. Speaker : Has the Hon. Law Minister followed the point which the hon. member is raising?

Dr. Ambedkar : Some hon. members have always felt that I am one of the hardest nuts in the cabinet. I now find the advantage of being a hard nut. To be yielding to all people, all and sundry, lands one in the difficulty in which I find myself now. If I had decided to stick to the original position, probably I might not have been in the difficulty in which I find myself now.

But having accepted the position on the assurance, of course, that the elections to these municipal bodies are going to be based upon adult suffrage, I do not think that there was any very great principle involved, in accepting the suggestion made by my friend Mr. Deshbandhu Gupta.

Secondly, as hon. Members will see, this scheme may not even come into operation, because in the amendment that I have moved, I have made provision that if Parliament provides by law for the creation of legislative bodies as it is done in other Part B and Part A States, elections then will take place on the basis of the newly created bodies. Having regard to these facts, I am not disposed to attach very great importance to the decision, whether it is taken one way or the other, because I feel that if there is enough pressure and

* P. D., Vol. 7, Part II, 21st December 1950, pp. 2236-44.

if there is enough time, Parliament may be persuaded before the elections come, to take upon itself the responsibility of having legislatures, giving effect to Article 240. Therefore, for the present, what I would insist is that the word "elected" be removed. And probably, I would like that with regard to New Delhi where I understand there is a very large element of nomination, I would restrict the representation of New Delhi to non-official persons. With that I think the House should be content, for the moment.

Shri Sondhi : What about the non-official members of other bodies? We should not discriminate between one body and another.

Dr. Ambedkar : With regard to other bodies in other Part C States, we need not go into it very much now because we are creating electoral colleges on the basis of.....

Shri Sondhi : I was referring to unofficial members who are nominated to other bodies. The hon. Member referred only to nominated members in New Delhi. We cannot discriminate between them.

Dr. Ambedkar : Under the new scheme probably the non-official elements will disappear.

Mr. Speaker : Let us not carry on the dicsussion any further.

Shri Deshbandhu Gupta : The Hon. Law Minister said that the word "elected" should go and be replace by "non-official body" for Delhi and New Delhi. Is that his desire?

Dr. Ambedkar : Yes, that would simplify the matters.

Shri Tyagi : But it has to be made clear that the Law Minister has accepted this on condition and in the hope that the new elections will be on the basis of adult suffrage and that they will be conducted in time for the general elections. We know that in these old boards a large part of the new populations are not represented or reflected at all. Not to give them representation will be very wrong.

Shri Kamath : Sir, I would like to bring to your notice that Dr. Ambedkar a little while ago referred to hon. Members

as "all and sundry". I do not know if it is quite proper. It may not be unparliamentary, but it is not dignified, I believe. So I request you to give your views, if not your ruling on this point.

Mr. Speaker : I do not give that expression any vulgar meaning. And he did not mean Members of Parliament. So many people come before the Ministers over this and that, and the words "all and sundry" do not apply solely to Members of Parliament. At any rate no hon. member need think that the cap fits him.

Shri B. Das : Sir, the Hon. Health Minister who controls the Delhi Municipal bodies has not been present here to assist us. Could we not decide this question later with her assistance also ?

Mr. Speaker : It was not expected that, after informal conferences and after postponing the question for the purpose of the conference, this point will be again discussed. I have been expecting a spirit of give and take, just a little giving in here and there. After all, humanly it is impossible to do absolute justice to everyone. Let us try to do as much justice as we can. And so I proceed further. Now how does the position stand ? Do I put the amendment to the House ?

Dr. Ambedkar : It is suggested that instead of the word "elected" we may have the words "Members other than officials".

Shri Deshbandhu Gupta : I accept this change.

Mr. Speaker : Let there be no more discussion, but let us get through with the Bill. Otherwise hon. Members will not get sufficient time tomorrow for the other Bills. My difficulty comes now. How am I to put the amendment ?

Order, order, let there be less noise in the House.

The Minister of Transport and Railways (Shri Gopalaswami) : I would like to suggest to the Law Minister the desirability of omitting the words "such as". I think we ought to say "Members of Municipal Committees District Board and notified area Committees". If we put in the words "such as" it would mean as if there were other categories of local bodies in which you want to refer.

Shri Deshbandhu Gupta : The reason for having those words is, there is the Delhi Improvement Trust.

Dr. Ambedkar : But in my copy I do not find the words.

Mr. Speaker : Mr. Deshbandhu Gupta may withdraw his amendment and the Hon. Minister may move his amendment.

Dr. Ambedkar : I am accepting it with certain modifications, and putting it as sub-clause (5) of article 27-I.

Mr. Speaker : Is the hon. Member Deshbandhu Gupta agreeable to this course ?

Shri Deshbandhu Gupta : Yes.

The amendment was, by leave, withdrawn.

Dr. R.U. Singh : Sir, I raised the question of Coorg and it has not been answered.

Mr. Speaker : Any Member may raise any question but the Minister need not answer every question. We must now proceed with the business in a reasonable manner as quickly as possible. The Minister is substantially accepting the amendment.

Dr. Ambedkar : I propose the amendment of which I have given notice just now. It is purely nominal and consequential and I propose to include Deshbandhu Gupta's amendment also in my amendment.

Mr. Speaker : In the case of these amendments, it is better that we read them. I find a little difficulty because these are not circulated to hon. Members. Therefore, the alternative courses open to us are either the amendments are read in the House or we postpone this clause and take up the next clause and keep this pending. There remains only one clause—clause 11. Then there is a further amendment by Dr. Ambedkar in respect of the schedule. That may be disposed of.

Shri Jawaharlal Nehru : Why not have the amendments read out?

Mr. Speaker : After disposal of clause 11 and the amendment of Dr. Ambedkar giving a new clause, the whole ground will be clear and there will remain nothing except the amendments. At this stage, we put this matter just aside for a few minutes— not till tomorrow necessarily. I go to clause 11.

Shri Dwivedi (Vindhya Pradesh)**:** There are some amendments to Clause 11A.

Mr. Speaker : That I am just putting off. It is rather unfortunate that hon. Members are engaged in talking and do not follow the proceedings.

The question is :

"That clause 11 stand part of the Bill".

The motion was adopted.

Clause 11 was added to the Bill.

New Clause 11A

Dr. Ambedkar : I beg to move :

After clause 11, insert the following new clause:

"11A. *Addition of new Fifth Schedule to Act XLIII of 1950.*— After the Fourth Schedule to the said Act, the following Schedule shall be added, namely:

"THE FIFTH SCHEDULE

[See sections 27A(2), 27(a), 27E(1) and 27J(a)]

Number of Members of Electoral Colleges

Name of State			Number of Members
1			2
1. Ajmer	...	...	20
2. Bhopal	...	...	20
3. Bilaspur and Himachal Pradesh	...	...	25
4. Kutch	...	...	20
5. Manipur	...	...	20
6. Tripura	...	...	20
7. Vindhya Pradesh	...	...	50"

Mr. Speaker : Amendment moved : Same as above.

Shri Dwivedi : I beg to move :

In the amendment by Dr. Ambedkar in the proposed new clause 11A, for the proposed Fifth Schedule of the Representation of the People Act, 1950, substitute the following:

"THE FIFTH SCHEDULE

[See sections 27A(2), 27C(a), 27E(1) and 27J(a)]

Number of Members of Electoral Colleges

Name of State	Number of Members
1	2
1. Ajmer	30
2. Bhopal	30
3. Bilaspur and Himachal Pradesh	42
4. Kutch	30.
5. Manipur	30
6. Tripura	30
7. Vindhya Pradesh	60"

In the morning I had a talk with Dr. Ambedkar along with certain other representatives of Part C States and we suggested to him that if a small Electoral College is created there will be difficulty and smaller the electoral college, it is likely to give some cause for corruption. It was therefore suggested that there should be bigger electoral College and this suggestion was accepted by Dr. Ambedkar. Therefore this amendment was proposed by me and others. Sir I move.

Mr. Speaker : Amendment, (of Shri Dwivedi) as mention abover moved:

Dr. Ambedkar : Sir, I accept the amendment.

Mr. Speaker : Are there any other amendments to this particular clause?

Dr. Ambedkar : Yes, they are just formal re-numbering the letters etc.

Mr. Speaker : That we shall take up later. If this amendment is accepted, I will put to the House the amended clause.

Shri Kamath : The first schedule to the Representation of People Act, 1950 has listed Andaman and Nicobar Islands among the part C States. I do not know what its position is now.

Mr. Speaker : It has already been cleared in the opening address that there is nothing there. It is a penal settlement only. So I will put the amendment to vote. The question is :

The motion of Shri Dwivedi was adopted.

Mr. Speaker : The question is :

After clause 11 insert the following new clause:

"11A. *Addition of new Fifth Schedule to Act XLIII of 1950.*— After the Fourth Schedule to the said Act, the following Schedule shall be added, namely:

(Schedule as above)

The motion was adopted.

New Clause 11A was added to the Bill.

Mr. Speaker : There is no other clause to be taken up excepting 10-B.

An hon. Member : There are formal amendments.

Mr. Speaker : Formal amendments like re-numbering and re-lettering will be taken up at the end.

Dr. Ambedkar : Clause 12 has not been put.

Mr. Speaker : Yes, clause 12 remains.

Clause 12 was added to the Bill.

Dr. Ambedkar : Sir, I do not know whether you have put to the House my amendment No. 2 in Supplementary List No. 7, regarding the addition of a new clause 27-J. It has been taken as moved but it has not been put and accepted.

Mr. Speaker : That has to be put. It will be a part of 10-B.

Dr. Ambedkar : Yes, but it is on a separate list—that was why I was wondering .....,

Mr. Speaker : Clause 10-B was held over. I shall put that in due course after disposing of the other amendments, but it is just possible that I may forget, in which case hon. Members will invite my attention to it.

Now do we proceed to clause 10-B ?

Some hon. Members : Let us finish it.

Mr. Speaker : If it is the desire of Members to finish it, I have no objection.

Some hon. Members : No, Sir, we shall adjourn now.

Mr. Speaker : I myself have been feeling a little diffident about it. Though the amendment may be formal, yet it is a long amendment and hon. Members should have an opportunity of seeing and studying it. Therefore, we might now adjourn and re-assemble tomorrow at 2 p.m. And I may say that the longer we discuss this tomorrow the shorter the time for the other Bill because the guillotine for the other Bill will be applied at 6 p.m. sharp. We are not sitting day after tomorrow.

The House then adjourned till Two of the Clock on Friday, the 22nd December 1950.

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL—*Contd.*

New Clauses 10A and 10B

***Mr. Speaker :** We will now proceed with the further consideration of the Bill to amend the Representation of the People Act. We were discussing yesterday clauses 10A and 10B and certain amendments moved by hon. Members.

The Minister of Law (Dr. Ambedkar) : Sir, I drew your attention to the fact that there was an amendment standing in my name. It is amendment No. 2 in Supplementary List No. 7. I should like to move it at this stage. The first amendment was moved by my friend Mr. Gupta. The second has remained undisposed of. May I move it ?

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*P. D., Vol. 7, Part II, 18th December 1950, pp. 2252-55.

Mr. Speaker : Yes. Will he move the other amendment also ?

Dr. Ambedkar : This was an independent amendment—addition of a clause. My other amendment would include Mr. Gupta's amendment.

The Minister of State for Transport and Railways (Shri Santhanam) : I think all the amendments have been placed before the House. This has only to be adopted.

Mr. Speaker : Those that came subsequently have not been placed by me before the House.

Dr. Ambedkar : I shall formally move the amendment I beg to move :

> In the amendment proposed by me, in the proposed new clause 10B, after the proposed new section 27I of the Representation of the People Act, 1950, insert the following new section 27J and re-number the subsequent section as section 27K :
>
> "27J. *Power of electoral colleges or the Coorg Legislative Council to elect notwithstanding vacancies therein.*—No election by the members of an electoral college or the elected members of the Coorg Legislative Council under this Act shall be called in question on the ground merely of the existence of any vacancy in the membership of such college or Council, as the case may be."

It is just to remove any difficulty or doubt that might exist.

Mr. Speaker : Amendment moved : (as above).

There are other amendments also.

Dr. Ambedkar : Yes, in supplementary list No. 8 I thought if this was disposed of I could move the others.

Mr. Speaker : I take it that this is an agreed amendment, that hon. Members are agreeable to it. Shall I put it to the House ?

The Minister of Transport and Railways (Shri Gopalaswami) : May I draw your attention to one point? Would this amendment not need some modification if you are accepting the other kind of electorate that is proposed for Delhi ?

Dr. Ambedkar : That also is described as an electoral college.

Shri Gopalaswami : Is it ?

Dr. Ambedkar : Yes.

Mr. Speaker : The question is :

In the amendment proposed by Dr. Ambedkar, in the proposed new clause 10B, after the proposed new section 271 of the Representation of the People Act, 1950, insert the following new section 27J and re-number the subsequent section as section 27K :

> "27J. *Power of electoral colleges or the Coorg Legislative Council to elect notwithstanding vacancies therein.*—No election by the members of an electoral college or the elected members of the Coorg Legislative Council under this Act shall be called in question on the ground merely of the existence of any vacancy in the membership of such college or Council, as the case may be."

The motion was adopted.

Mr. Speaker : I believe the amendment to incorporate sections 27A to 27J have already been moved. I would now take the amendments in supplementary list No. 8.

Dr. Ambedkar : I think it would be better if I move them *seriatim*.

Mr. Speaker : The amendments in supplementary list No. 8 which are amendments to that amendment, have to be moved. My idea is to have all the amendments once before the House and then we will proceed, for purposes of discussion and voting, in parts rather than put the whole clause immediately.

Dr. Ambedkar : I beg to move :

(*i*) In the amendment proposed by me, in the proposed new clause 10B, in sub-section (3) of the proposed new section 27A of the Representation of the People Act, 1950, after the words "for any State or group of States" occurring in line two, insert the words "so specified".

(*ii*) In the amendment proposed by me, in the proposed new clause 10B, in sub-section (4) of the proposed new section 27A of the Representation of the People Act, 1950, after the words "electoral college" insert the words, brackets and figure "for any such State or group of States as is referred to in sub-section (*2*)".

(*iii*) In the amendment proposed by me, in the proposed new clause 10B, after sub-section (*4*) of the proposed new section 27A of the Representation of the People Act, 1950, add the following new sub-section :

"(5) the electoral college for the State of Delhi shall consist of—

(a) the members of the House of the People representing that State;

(b) the non-official members of the Advisory Council of the Chief Commissioner of Delhi; and

(c) the non-official members of every Cantonment Board, District Board, Municipal Committee and Notified Area Committee within that State."

(*iv*) In the amendment proposed by me, in the proposed new clause 10B, in the proposed new section 27B of the Representation of the People Act, 1950, after the words "any State or group of States "insert the words" specified in the first column of the Fifth Schedule".

(*v*) In the amendment proposed by me, in the proposed new clause 10B, in sub-section (*1*) of the proposed new section 27F of the Representation of the People Act, 1950, after the words "for any State or group of States" insert the words "specified in the First column of the fifth Schedule".

(*vi*) "That the necessary corrections for the numbering and lettering of the clauses in the Bill and of the sections inserted by the Bill be carried out together with consequential corrections of cross references."

*** Mr. Speaker :** Amendment moved : (as above)

In the amendment by Dr. Ambedkar, in the proposed new clause 10B, in clause (*b*) of the proposed new section 27J of the Representation of the People Act, 1950,—

(*i*) after the words "so created" occurring in line one, insert the words "jointly or",

(*ii*) after the words "then after" occurring in line three, insert the words "such body has or"; and

(*iii*) after the words "constitution of" occurring in line six, insert the words "such body or".

I should like the Hon. Law Minister to clarify the point.

Dr. Ambedkar : There are two objections to this amendment. The first is a Constitutional objection which arises out of the

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* P. D., Vol. 7, Part II, 12th December 1950, pp. 2259-60.

provisions contained in article 240 of the Constitution. I think it is quite clear from the amendment of my hon. friend Dr. Parmar that he supposes that it would be possible for Parliament to create one single legislature for these two areas, namely Himachal Pradesh and Bilaspur. I submit that it would not be open to Parliament to do any such thing because article 240 says :

> "Parliament may by law create or continue for any State specified in Part C of the First Schedule..." which means that if Parliament wants to create legislative bodies for the States mentioned in Part C, it shall have to create for each Part C State a separate legislative body. There is no authority given by article 240 to create a joint legislature. On that ground, this amendment is not in order.

My second submission is this. I believe my hon. friend suggested that it might be possible for Bilaspur to be merged in Himachal Pradesh, and in that event, that would constitute a single State. That possibility, I do not deny; but the consequence of that would be that we shall have to amend this Bill and make Bilaspur a merged State, which stands on a quite different footing, and would not come within the four corners of the Bill as presented to Parliament.

Therefore, my submission is that it is not possible for me to accept the amendment in view of the objections that I have stated.

Shri J. N. Hazarika (Assam) **:** Sir, section 27J which has now been renumbered as 27K is absolutely unnecessary, because this clause is likely to create .....

Mr. Speaker : To which clause is the hon. Member referring?

Shri J. N. Hazarika : Section 27J. It is likely to create some delusion in the minds of the people in Part C States.

Mr. Speaker : Hon. Member may please see that section 27J has just been replaced by an amendment which has been carried by this House. Would he refer to the new section 27J as just adopted by the House?

Shri J. N. Hazarika : It has become 27K now.

Dr. Ambedkar : After my amendment, section 27J would become 27K.

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* **Mr. Speaker :** ..... Then we come to the first amendment of Dr. Ambedkar to his own amendment. After disposing of it, we shall come to the main amendment. The first amendment which Dr. Ambedkar has moved to his own amendment is in Supplementary List No. 8.

Dr. Ambedkar : The one about the addition of the words "so specified".

Mr. Speaker : The amendment is, more or less, a formal one. The question is :

> In the amendment by Dr. Ambedkar, in the proposed new clause 10B, in sub-section (*3*) of the proposed new section 27A of the Representation of the People Act, 1950, after the words "for any State or group of States" occurring in line two, insert the words "so specified".

The motion was adopted.

Mr. Speaker : Then we come to the second amendment. That is also, more or less, a formal amendment. The question is :

> In the amendment by Dr. Ambedkar, in the proposed new clause 10B, in sub-section (*4*) of the proposed new section 27A of the Representation of the People Act, 1950, after the words "electoral college" insert the words, brackets and figure "for any such State or group of States as is referred to in sub-section (2)".

The motion was adopted.

Mr. Speaker : Now we come to the amendment regarding the Electoral College for the State of Delhi, and which is proposed to be added as sub-section (5) of section 27A. What does Mr. Tyagi want to say? ,

Shri Tyagi : Sir, I only want to enquire what will be the meaning of the word "non-official".

Dr. Ambedkar : Other than official, that is all.

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* P.D., Vol. 7, Part II, 22nd December 1950, pp. 2263-64.

*** Shri Tyagi :** ..... Those who have no office, they are non-official, persons like me, Sir. But persons like Shri Jawaharlal Nehru and Dr. Ambedkar they hold offices, and they are not non-officials. I hold no office and therefore, I am a non-official. Therefore, I request that a clear definition of the word "non-official" may be given, unless it be that it is given in some other Act. Otherwise this will lead to difficulties.

Dr. Ambedkar : The word "non-official" is so elemental that I should have thought that it would be very, very difficult to find a simpler phraseology; and I suggest to my friend Mr. Tyagi that if he was involved in any legal dispute about this word, if he engages even a third-class lawyer, he will be able to get sufficient advice.

** **Shri Deshbandhu Gupta :** I only want to point out that there is no official Member of the Advisory Council. Here in (b) it is said that the non-official members of the Advisory Councial of the Chief Commissioner etc. There is no official at all. Therefore, if it is not necessary, this word 'non-official' may be dropped. I am suggesting it to the Mover.

Dr. Ambedkar : It cannot do any harm.

Shri M. A. Ayyangar : ..... Then under section 134 rules were framed. When the Government of India Act was repealed an Ordinance was issued defining who were 'officials' and who were 'non-officials'. This Ordinance has lapsed. What is the present position ? If in 1919 they were defined and later on under the Ordinance also it was found necessary to define the words, why should we not define it here also ? That lacuna must be made up. It is not such a simple term that it can be found in a dictionary. It will depend upon the interpretation that is put on it. It is a very valid objection.

Dr. Ambedkar : I am sure the matter is covered. If it is not covered it is not difficult to cover it.

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* P. D., Vol. 7, Part II, 22nd December 1950, pp. 2264-65,.

***Ibid.,* pp. 2269.

* **Mr. Speaker :** Then comes addition of Part IV. 27A is proposed to be added.

Dr. Ambedkar : I would like to move an amendment to 10B. I beg to move :

> In the proposed new clause 10B of the Bill, in the proposed section 27A of the representation of the People Act, 1950, for the words "Tripura and Manipur" substitute the words "Manipur and Tripura."

The motion was adopted.

Mr. Speaker : The hon. Members will remember that out of the five amendments moved this morning by Dr. Ambedkar, three related to 27A which have been carried by this House.

I find that nobody wishes to move any of the amendments or make any speech further. So I shall come to all the clauses together, because I find that other amendments are only verbal.

Does any hon. Member wish to address himself to any particular clause now? No. Then I will put all the clauses— 27–D, E, F, G, H, I, ...

Dr. Ambedkar : With regard to 27-I, Sir, with your permission I would like to move a small amendment to sub-clause (2), like the one I had moved earlier, namely, instead of Tripura and Manipur, it should be Manipur and Tripura.

***Mr. Speaker :** Then there is a further amendment proposed by Dr. Ambedkar. The question is :

> "That the necessary corrections for the numbering and lettering of the clauses in the Bill and of the sections inserted by the Bill be carried out together with consequential corrections of cross references."

The motion was adopted.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

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* P. D., Vol. 7, Part II, 22nd December 1950, pp. 2271.

Dr. Ambedkar : I beg to move :

"That the Bill, as amended, be passed."

Mr. Speaker : Motion moved :

"That the Bill, as amended, be passed."

The motion was adopted.

REPRESENTATION OF THE PEOPLE (No. 2) BILL

***The Minister of Law (Dr. Ambedkar) :** I beg to move for leave to introduce a Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and illegal Practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

The motion was adopted.

Dr. Ambedkar : I introduce the Bill.

REPRESENTATION OF THE PEOPLE (No. 2) BILL

****The Minister of Law (Dr. Ambedkar) :** I beg to move :

"That the Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections, be referred to a Select Committee consisting of Shri M. Ananthasayanam Ayyangar, Pandit Thakur Das Bhargava, Shri Frank Anthony, Pandit Hriday Nath Kunzru, Shri M. A. Haque, Shri Mahavir Tyagi, Shri Biswanath Das, Shri Sarangadhar Das, Sardar Bhopinder Singh Man, Srijut Rohini Kumar Chaudhuri, Shri Girija Sankar Guha, Shri Khandubhai K. Desai, Shri S. Sivan Pillay, Shri Chandrika Ram, Shri T. R. Deogirikar, Shri P. Basi Reddi, Dr. Syama Prasad Mookerjee, Shri Hussain Imam, Shri M. V. Rama Rao, Shri Gokulbhai Daulatram Bhatt, Shri Raj Bahadur, Kumari Padmaja Naidu, Shri S. Nijalingappa, Shri Ramnath Goenka,

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* P. D., Vol. 7, Part II, 18th December 1950, p. 1834.

* P. D., Vol. 7, Part II, 22nd December 1950, pp. 2283-91.

Shri Hari Vishnu Kamath, Shri S. N. Mishra, Shri L. Krishnaswami Bharathi, Shri Surendra Mohan Ghose, Shri Krishna Kant Vyas, Shri M. L. Dwivedi and the Mover, with instructions to report by the end of the third week after the commencement of the next session of Parliament."

Pandit Maitra (West Bengal) **:** What will be the quorum?

Dr. Ambedkar : The quorum, I understand, is provided by rules, namely, one-third.

Sir, this Bill, as members must have noticed, is a very long Bill and contains 163 clauses. It would take me much beyond the time that is available now for the consideration of the motion, if I were to enter upon a full and complete description of the various provisions contained in these 163 clauses. This Bill has already been in the hands of Members of Parliament for at least three or four days and I am sure that they must have found time to go over the clauses of the Bill and to understand the main purport of the clauses incorporated therein. I do not think, therefore, I am called upon to give an exhaustive expose of the matters included in this Bill. I, therefore, propose to be very brief.

The House will recall that at an earlier Session of the Parliament a Bill for the Peoples Representation Act, 1950, was passed by this House. That Bill dealt with the following maters : (1) allocation of seats between the different States for their representation in the lower Chamber and the upper Chamber; (2) delimitation of constituencies for the purpose of the election to the House of the People and to the Legislative Assembly of the various States; (3) qualifications of voters at such elections and (4) preparation of the electoral roll and constituencies.

The following matters were left out, namely, (1) qualifications and dis-qualifications for candidates to and for the members of the legislature; (2) the actual conduct of elections; (3) corrupt and illegal practices; (4) the definition of election offences and (5) the constitution of the Election Tribunal for the purpose of deciding election disputes.

I should have been very happy myself if the provisions of the last Bill and the provisions contained in this Bill had

been incorporated in a single Statute, so that hon. Members would have had the facility of carrying one single Statute covering all matters affecting the representation of the people in the Central Legislature as well as in the State Legislatures. But, unfortunately, it was not possible to do so, because it would have taken a very long time, it was felt better to cut up the matter into two parts, that is to say, to provide for the constituencies, for the voters' qualifications and so on, in an earlier measure, so that the Election Commission would have been in a position to start work with a view to putting through the elections by April or May. That was the reason why a certain part of the matter which was, so to say, integral with matters contained in this Bill were severed and put into an earlier piece of legislation.

Now, Sir, as I have said, the present Bill deals with five matters. I am sure the House will not expect me to go over the whole gamut of the provisions relating to each of these five parts. I will take up certain important provisions which I am sure the House will be interested to know at this stage.

Now, first of all, I will take up the question of the qualifications and disqualifications for candidates. So far as the elections for candidates is concerned, we do not impose any additional qualification except that he must be a voter, that is to say, he must be a citizen, he must be of 21 years' age and must have resided in a particular constituency for the qualifying period. Every voter will, therefore be entitled to stand as a candidate without requiring to fulfil any additional qualification. One other matter to which I would like to draw attention in this connection is this, that in the present Bill we have removed all residential qualifications. At one time, hon. Members will remember, that a candidate was not only required to be a voter, but was also required to be a resident in that particular constituency. Otherwise, he could not stand. It was felt that in view of the fact that we are now a united people under one single Constitution, recognising no barriers of caste, creed, community or provincial

barriers, it was desirable to provide that any person who is entitled to be a candidate may stand anywhere in India, notwithstanding the fact that he does not belong to that province or to that constituency.

[MR. DEPUTY SPEAKER *in the Chair*]

So that under the provisions of the Bill a person may not only stand as a candidate in his own constituency but he may stand as a candidate in any other constituency in his State, nay, he may stand as a candidate in any other State where he has not resided, provided he is a qualified voter in some particular constituency. That is with regard to qualifications.

With regard to disqualifications what we have done is this. Hitherto the law relating to disqualification was scattered in different statutes. Part of it was laid down in the Government of India (Provincial Elections, Corrupt Practices and Election Petitions) Order of 1936 issued by the Secretary of State after the passing of the Government of India Act, 1935. Other provisions were to be found in the Indian Elections Offences Enquiry Act, 1920. It was felt that it would be much better to have a consolidated list of disqualifications in this very Act. And that is what has been done.

I may here mention that it was my proposal that the holding of a contract with the Government should also be a matter for disqualification. Such a provision exists in the U. K. Act. But I thought that it might be better to consult the Select Committee on this particular provision whether the disqualification should be for standing as a candidate or whether the disqualification should be limited to continuing to be a Member of Parliament. As I myself was not certain which course to adopt I have left the question open to be decided by the Select Committee.

Now I come to another matter, namely, the conduct of elections. In this connection I would like to draw the attention of the House to certain new features that are contained in the Bill with regard to nomination. As the House will remember, under the existing law the question of the validity

of the nomination of a candidate can be canvassed, discussed and decided upon on an election petition. I have always felt that that is a very harsh procedure. The question of nomination is so to say a preliminary issue and there is no reason why this preliminary issue should be kept hanging, allowing the whole election to take place, forcing people to spend their time and their energy in contesting the election, and subsequently somebody comes up and says that the elected candidate has not been validly nominated. So that, without getting into the merits of the election the practice is followed and the whole thing is disposed of on a preliminary issue. I think it is right that in the matter of election petitions it is desirable to separate this preliminary issue from the other issue as to whether the election is valid on other grounds or not. I have therefore proposed in this Bill that this issue shall be treated as a preliminary issue and the Election Commission shall make some provision for the purpose of constituting some tribunal to which any dispute as regards the validity of nomination will be referred and disposed of finally : so. that when the election takes place no such issue could be raised before the tribunal. I am sure this is a very salutary provision. I am sorry, on the advice of the Election Commissioner, it would not be possible to give effect to this provision at the time of the first election, because he thinks that he has not got sufficient time to think about forming an ad hoc tribunal which may be set up to come and give relief to the contestants. But, as I say, if the Select Committee thinks that this should also be applied then I would have no objection.

Under the conduct of elections I should also like to draw attention to another important matter, namely, method of voting. This Bill provides that some constituencies shall be two member constituencies. That is inevitable in view of the fact that the Constitution provides for the reservation of seats for the Scheduled Castes and the Scheduled Tribes. The fact that you have reserved constituencies presupposes at least two-member constituencies.

Pandit Thakur Das Bhargava (Punjab) **:** Why? It is not inevitable.

Dr. Ambedkar : That is a matter which you may discuss but that is how the Bill proceeds upon. There will therefore be some two-member constituencies. The other constituencies will be single-member constituencies. In the two-member constituencies the voting will be by distributive vote.

Now I come to the Election Tribunal.

Pandit Maitra : May I know whether in no case there will be three-member constituencies?

Dr. Ambedkar : I am going to say at the end that these are not matters which can be taken as concluded.

With regard to the Election Tribunal the position is this. There are of course a variety of ways in which an election tribunal could be constituted. Either you can constitute an election tribunal whose authority will be final, without any right of appeal, or you can have a tribunal whose decision will be subject to an appeal. As I said, on this there cannot be any dogma. One has to decide in the light of public opinion. But the Bill proceeds upon the assumption that there should be some sort of a right of appeal to the High Court. It is also assumed that the public has a greater confidence in the official machinery for the disposal of election disputes. Non-officials, it is said, may have a bias which may prejudice the ultimate judgment in the case of an election dispute. Consequently what the Bill proposes to do is to have a two-member tribunal. The Chairman will be the District Judge and the other member will be a judicial officer. He may not be a District Judge. He may be some other judicial officer, but an official. The point is this that it is difficult to imagine at this stage what would be the number of election petitions. In view of the fact that the people of this country are so enamoured of politics so far as I see—having almost a passion for politics—I surmise that there might be a very large number of election petitions. If that happens and if you wish that the machinery to decide appeals should be official, the number of District Judges that may be available today would be found to be considerably insufficient to cope with the task. It is therefore that the second Member is described as a Judicial Officer. He may not be of the rank of the District Judge. In addition to that, it has been provided that the High Courts in the different provinces may prepare a list of

advocates, who in the opinion of the High Court, may be deemed to be sufficiently qualified and reliable to be employed as Members of this Tribunal. That is again on the supposition that the petitions may be so large that even the Judicial Members may not suffice. (*Interruption.*) I think it is good that we should give some employment to advocates because notwithstanding the many remarks that I have been hearing I am firm enough to say civilization cannot exist without advocates. Law is the very foundation of civilization.

As I said, the Bill provides that in the case of difference of opinion in the Tribunal a reference may be made to the High Court. Another, I think, very important feature of the Bill is this. I am not very much versed in the law relating to election petitions; I have not dealt with them on a very large scale. With what little experience I have, I have come to the conclusion that the law is in the most indefinite state that one can find. You can never definitely say what are the manners in which an election petition may be disposed of. You can never be certain on what grounds the election as a whole may be declared to be void. You can never be certain what are the grounds on which the election of a particular candidate may be declared. You are never certain under the existing law what are the cases in which the Courts may entertain what is called a plea of recrimination. I have therefore devoted considerable time and attention to the clarification of this position and I would invite the attention of hon. Members to clauses 93, 95 and 96 in which they will find that the position is made as clear as one can possibly do, and I hope that this will be a great advantage both to-the Tribunal as well as to the contesting candidates themselves.

Then, I come to the law of corrupt and illegal practices. Here again, the law has been scattered in various places. I endeavoured to bring all the provisions relating to corrupt practices and illegal practices under this one Bill and you will find them codified from sections 122 onwards. Our law in a sense was defective so far as corrupt intention was concerned. The law has not made it clear that in the case of a corrupt practice what was essential was not a practice which is declared to be corrupt but the corrupt intention. With

regard to the illegal practice, there is no question of intention at all; the practice is declared to be bad, but with regard to the corrupt practice in order to give a finding of guilty, it is necessary to have a finding that the intention was corrupt. You might call your friend to a dinner or lunch during the period when your election is going on. Your opponent may say that you have corrupted him. I do not know whether such a plea could be sustained but under the existing law this proviso was not there and I have tried to square up the thing, because I find that is also the provision in the English law that in a corrupt practice there must be a corrupt intention.

I know that the House is more interested in finding out what provisions are made in this Bill for a free and fair election. That, I think, is the desire of everybody and I therefore will now give to the House the provisions which relate and which are intended to bring about a free and fair election.

(1) All election meetings on the election day and the day preceding such a day have been banned. We have thought that it would be desirable to have two peaceful nights to the voters as well as to the candidates before they go to the polling-booths.

(2) Penalty has been provided for disturbance at election meetings, which I think is very desirable.

(3) Officers performing any duty in connection with an election and police officers have been prohibited from acting for candidates or to influence voters. That you will find in clause 124.

(4) Canvassing in and near polling stations has been prohibited.

(5) Penalty has been provided for disorderly conduct in or near polling stations such as the use of a mega-phone or loud speaker or shouting in or near the polling station.

(6) This is an important thing. The hiring or procuring of conveyances for bringing voters to or from the polling station has been made punishable.

(7) Breaches of official duty in connection with the elections have been made punishable.

(8) Removal of ballot papers from the polling station has also been made an offence.

(9) Personation has been made a cognizable offence throughout India, and as you will see, there are other provisions of the Bill. There is a provision which says that every voter shall have to give his thumb impression in an indelible ink. I hope the ink will be indelible so that there will be no case of a second vote in the name of another person. We have got an enormous electorate and it would be quite difficult to find out that there is no impersonation. The only method of safeguarding it is to have some kind of mark by which when a voter comes to give a vote, it will be possible for a polling station to ascertain that he has already not voted.

These are the general provisions which are contained in this Bill. Sir, I quite see that the time at the disposal of the House is very short, having regard to the length of the Bill, but I think the House can take comfort in the fact that we have had a very large Select Committee. I do not think that any Bill has had such a big Select Committee.

An Hon. Member : Except the Hindu Code.

Dr. Ambedkar : It was also a very small Select Committee, if I remember aright but here there are about 31 Members.

An Hon. Member : Adult franchise?

Dr. Ambedkar : I have given almost adult franchise. Secondly, as I said, this does not involve any question of policy. These are mere questions of methods of bringing about a fair deal in the election and consequently, I do not propose when the Select Committee meets to raise any kind of objection to any suggestion that might be made. It will be an open forum. I should also like to say that if those Members who have not had the luck to be included in the Select Committee also care to send any suggestions either personally to me. or to the Select Committee, I shall place them before the Select Committee and see that they are given due consideration. Sir, I move.

***Prof. Ranga :** ..... I feel, Sir, that the Member should be given the opportunity to say which seat I wants to keep and even if he fails to declare, the result of that election which was declared first, that seat should be treated to be one for which he was elected.

Dr. Ambedkar : It is there, he has only to resign within the prescribed period.

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*P.D. ,Vol. 7, Part II, 22nd December 1950, p. 2295.

(25)

*DEMAND NO. 13—MINISTRY OF LAW

Mr. Deputy Speaker : Motion is :

> "That a supplementry sum not exceeding Rs. 15,93,000 be granted to the President to defray the charges which will come in course of payment during the year ending the 31st day of March 1951, in respect of 'Ministry of Law'."

Shri Kamath : About this Supplementary Demand, in the last Session in the middle of the discussion of this, Parliament rose and Dr. Ambedkar had to reply to this particular demand placed before the House at that time. The footnote says that the excess is due to the post-budget creation of a Central Agency in the Ministry of Law for the conduct of cases in the Supreme Court on behalf of the Central and State Governments, The expenditure is to be shared between the Government of India and the Governments of the participating States. Dr. Ambedkar will recollect that he had to answer this particular point raised at that time, but Parliament rose for the day and the demand was not subsequently before the House. I would be grateful if Dr. Ambedkar can throw some light on this agency created after the Budget was passed, particularly with reference to the recoveries from other Governments. How many State Governments are contributing to this agency and in what proportion, and what exactly is the work to be transacted by this Central Agency that has been created?

The Minister of Law (Dr. Ambedkar) : Mr. Deputy Chairman, I believe—in fact I am certain—that there were two questions put to me during the course of this Session one by Mr. Raj Bahadur and another by Mr. Kazmi and I have given the fullest information on this point in reply

*P. D., Vol. 7, I, Part II, 21st December 1950, pp. 3178-79.

to those two questions. If my hon. friend will take the trouble of referring to my replies, he will have all the information that he requires.

Shri Hussain Imam : Were they written replies or oral ?

Dr. Ambedkar : They were oral replies but they will appear in the record of proceedings. If required, I will give him my copy.

Mr. Deputy Speaker : It is here in the proceedings.

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SECTION IV

9th February 1951

TO

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(26)

* DENTISTS (AMENDMENT) BILL

The Minister of Law (Dr. Ambedkar) : As the Hon. the Health Minister is ill, I am asked to take charge of this Bill and I therefore beg to move :

> "That the Bill to amed the Dentists Act, 1948, be taken into consideration."

The Bill is a very short one and it does not involve any controversial matters. The Dentists Act of 1948 came into force on the 29th of March 1948. It was made applicable to Part A, Part C and Part D States. Under Section 49 of that Act, it is provided that no person shall be entitled to practise dentistry after the 28th March 1950 unless his name appears on a register of dentists which the Act required should be prepared in accordance with the rules contained therein. It was hoped that that register would be ready by the 28th of March 1950. Consequently, the operative portions of this Act were so framed as to come into operation on the 28th March 1950. Unfortunately, this expectation has not been fulfilled. It was reported from various States that the register would not be ready by the 28th March 1950 and consequently it became necessary to extend the period by one year in order to enable the States concerned to prepare the register. As the Parliament was not then sitting, Government issued an Ordinance giving effect to the necessary provision expending the period up to the 28th March 1951. This Bill is intended to convert the Ordinance into law. The main provision therefore is to extend the period for the purpose of preparing the register.

Advantage has been taken of the present occasion to amend the law in order to remove some of the difficulties which have been felt in giving effect to the original Act. Firstly, the

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* P .D. Vol. 4, Part II, 11th August 1950, p. 841.

original Act contained two provisions. One provision was not to allow any person who was not placed on the register to be employed in Government hospitals. Obviously, it was expected that this provision would become operative after the registers ready. As the registers are not ready, persons who have not been placed on the register by reason-not of their not being qualified, but of the register not being ready would become disabled from holding any office in Government hospitals. Therefore, it has become necessary to extend the period and permit such persons to hold office notwithstanding the fact that they are not placed on the register.

Secondly, there is a Dental School in Bengal which used to grant Diplomas in Dentistry. At the time when the Act was passed there was a controversy as to whether the diplomas granted by this Dental School of Bengal should be recognised to enable persons holding diploma to be placed on the register. It was felt that the diplomas granted by the Dental School of Bengal were not sufficiently qualified to place them on the register. There has been considerable agitation by persons holding the diploma granted by the Dental School of Bengal that this disability should be removed. A compromise has been suggested by the Government of West Bengal according to which persons who have received their diploma before the year 1940, subject to certain conditions, may be treated as persons qualified to be entered upon the register. That compromise is also given a place in this Bill.

The Bill, therefore, contains three provisions :

> (1) to extend the period, (2) to permit names of persons holding diplomas of the Dental School of Bengal in certain cirumstances to be placed on the register and (3) to continue the employment of unregistered dentists in the Government hospitals till 1951 until the register is prepared.

This is all that the Bill contains and I hope that the House will not find any difficulty in giving its assent to the Bill.

Mr. Speaker : motion moved :

> "That the Bill to amend the Dentists Act, 1948, be taken into consideration."

Shri Sidhva (Madhya Pradesh) : First of all I take strong exception to the issue of an ordinance when the House was sitting in the month of March.

Dr. Ambedkar : The ordinance was issued some time in May. I wish that the points that were raised by my hon. Friends Mr. Sidhva and Pandit Thakur Das Bhargava had been reserved by them to the time when their amendments were taken up. It becomes somewhat embrassing to reply on matters which would, I have no doubt, be raised again when their amendments are moved. But, I cannot help now having to reply to the points raised by them : I shall do so rather briefly, because I know I shall have to say .....

Mr. Speaker : I do not propose to allow any arguments on the amendments.

Pandit Thakur Das Bhargava : I am not going to move any amendment if my hon. friend dose not accept it.

Dr. Ambedkar : Mr. Sidhva has raised one or two points. The first point raised was why an Ordinance was made when the House was in session. The answer to that is two-fold. The first is this. The first question that was made to the Government of India in the matter of extension of time for the preparation of the Register came from the Government of Madras, and that too on or about the 15th of March 1950. That mean that only 13 days had been left for the period for the preparation of the roll to expire. That is one reason, the second reason is that after the receipt of this letter from the Government of Madras, informing the Government of India that it was not possible for them to complete the Register, naturally, it was necessary for the Government of India to find out from other States as to whether they were in a position to prepare their list by the date fixed, or whether they too wanted some extension. Naturally, there ensued correspondence between the Government of India and the various other States.

That undoubtedly took time, and must take time, with the result that by the time the Government of India had received the replies and was able to assess whether an amendment

in terms proposed by the Government of Madras was necessary, Parliament had been prorogued. That is the reason why the measure could not be brought up before the recess.

The second point raised by my friend Mr. Sidhva was this that he did not see any reason why we should make a statutory provision for the recognition of certain qualifications granted by the Bengal Dental School. According to him that was a matter which by the Act is left to the Dental Council. Now, I think my friend Mr. Sidhva has missed one important point and it is this. The power to grant recognition vested in the Council relates to qualifications or degree granted by schools to existence; but we are dealing with a matter in which degree and diplomas have been granted by a body which has become defunct. Consequently, it is for the Government of the day to decide whether the degree granted by a school giving tuition in dentistry were worthwhile recognition or not. It is not a matter which should be left to the Bengal Council under section 10, sub-clause (2). The word is "grants" which means "is granting at present" and not diplomas which have been granted before. That being so it cannot be a matter which could be left easily to be dealt with by the Dental Council under its power, and if we have to amend the Schedule, then that must be done by the law itself. That is why a legal provision is made in the Bill to cover that particular matter.

Now, what I have said with regard to the Bengal Dental School also applies to what my friend Pandit Thakurdas Bhargava said on the very same question.

I come now to the points raised by Mr. Kamath. The first point raised by him was more or less of a technical character. If I understood him correctly, he said that the law required that the Register should be ready on the 28th March, 1950, and that if a person was not on the Register, then under the provisions of Section 46 and 49, he incurs certain penalties, while the Ordinance which exempted the person concerned from these penalties came into operation on the 29th May, 1950. There is, therefore, a two months' period in which a person not being on the Register and continuing to practise or holding office was liable to certain penalties. What

is the position with regard to these persons ? I think my friend Mr. Kamath, if he had read clearly the terms of the amendment proposed in the Bill itself, he would have seen that the provisions say that :

> "In sub-section (3) of section 46 and sub-section (1) of section 49 of the said Act, for the words 'two years' the words 'three years' shall be subsituted and shall be deemed always to have been substituted."

Therefore, it is clear that that point has been adequately covered by the present clause.

Shri Kamath : My point was that if during these two months, from March 29th to May 29, if a dentist had not been registered, then under the Act, and because the Ordinance had not come into force, how could mere executive instruction from the Government prevent a prosecution, or some other penalty being imposed on that dentist ?

Dr. Ambedkar : I quite agree that that could not have prevented prosecution. But fortunately no such case happened and it cannot happen now because the period is carried back to the original Act.

Shri Kamath : But then, Sir .....

Mr. Speaker : Order, order. The point is very clear.

Dr. Ambedkar : My friend Mr. Kamath in dealing with the reasons as to why this Bill was brought in, has made, if I may say so, certain very serious allegations. The contention on behalf of the Government is that this Bill has become necessary by reason of the fact that the States which were required to carry out the provisions of preparing the list have not been able to do so. My friend suggests that there is another reason, and that reason is that there are certain British dentists working in this country who do not propose to become domiciled and get themselves registered, and that this Bill is intended to benefit them. Now, I first of all do not understand how an extension of one year is going to benefit a British dentist working here who has no intention of becoming a domicile of this country. I cannot understand it. But if my friend persists in making that suggestion, which I think is a very serious allegation against an hon. Member

of Government, then it should be his duty when that Member returns, to specifically put the question and ask her reply, whether this was the real motive in bringing forward this particular Bill. I am unable to give any categorical answer; but I may say that I find it extremely different to believe that an hon. member of Government should venture to bring forth such a Bill for no other except, the paltry purpose of benefiting one or two European dentists now in this country. It seems to me a most extravagant allegation.

Shri Kamath : I did not say it is the only purpose, it may be one of the purposes.

Mr. Speaker : But still, the suggestion is very uncharitable.

Dr. Ambedkar : On that point also I would like to point out to him, in answer to a question that he asked, namely, to state the present position, that all the States, who were written to in order to find out how much time they would find it necessary to prepare the register, have replied that they would require not less than one year. And the Bombay Government which may be given the credit of having a more efficient administrative machinery than others, insisted that they should have two years. I think that in itself would suffice to dismiss the suggestion made by my friend Mr. Kamath that this Bill was intended to protect some Britishers in this country.

I do not think that there is any point which has been raised to which I have not adverted in the course of my reply. The Bill, as it is, is a very simple, non-controversial one. It has arisen not because of the fault of the Central Government, but because of the other burdens carried on by the Provincial Government, they could not find the time to bring a particular provision of the Act into operation. I do not know whether we can do anything else except to help the Provincial Governments to give effect to this piece of legislation and being the Dentists Act into operation as early as possible.

Mr. Speaker : The queation is :

> "That the Bill to amend the Dentists Act, 1948, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 (Amendment of section 46 and section 49, Act XVI of 1948)

Shri Kamath : I beg to move **:**

> "In clause 3, in the proposed amendment to sub-clause (3) of section 46 and sub-section (1) of section 49 of the Dentists Act, 1948, for 'three years', substitute 'two years and six months'."

The present clause has been inserted so as to enable State Governments to complete their registers of dentists under section 46 and 49 of the Act. This is a retroactive piece of legislation inasmuch as the words used in the clause are "and shall be deemed always to have been substituted." I for one cannot see why for registering a few hundred, dentists, such a long period is necessary. I therefore ask again the Minister to tell the House how many dentists were still to be registered on the 29th March 1950 and in what stage the process is. That would be useful for us to know how much time is necessary for the complete registration and why this extension of time by one year is necessary. If those figures are forthcoming, we will be able to judge what time would be needed to complete the work of registration. In the absence of that it would be very difficult to arrive at an idea of the time required for the registration.

Dr. Ambedkar : This is a matter of opinion. My friend Mr. Kamath with his abundant energy and administrative experience no doubt thinks that six months would be more than enough for completing the register. But, as I just now told the House, even a Government as efficient as the Government of Bombay asked for two years. I personally myself think that in view of the fact that the obligation of preparing the register rests upon the Provincial Governments, it is desirable that this House should follow what the Provincial Governments think is feasible in this matter. As a matter of fact we have curtailed the period to one year instead of the two years asked for by the Bombay Government. We have stuck to one year, which was the original proposal by the Government of Madras. I do not think it is possible

for us with safety to curtail the period for us with safety to curtail the period provided in this Bill.

Shri Kamath : I take it that the Hon. Minister has no figures with him.

Dr. Ambedkar : No figures.

Mr. Speaker : If the registers are incomplete, how can he give the correct figures ?

Mr. Ambedkar : There is no register and who knows who is a dentist and who not.

The motion of Shri Kamath was negatived,

Shri Sidhva : I beg to move :

> Renumber clause 3 as sub-clause (1) of clause 3 and add the following new sub-clause (2) :
>
> "(2) In sub-section (*1*) of section 49 of the said Act, after the words 'three years' the words ' from the commencement of this Act or on the completion of formalities under section 32, whichever is earlier,' shall be inserted."

Dr. Ambedkar : As my friend Mr. Sidhva has said, this amendment affects an important principle which underlies the provisions of this clause, namely that the registers should be operative on the same date throughout India. This is not a mere matter of academic interest .....

Shri Sidhva : Is it laid down in the Act ?

Dr. Ambedkar : That is why we have said three or two years throughout. Otherwise we would have prescribed different dates for different States. It is necessary and desirable to preserve the principle of uniformity. The House will see that it affects eligibility for holding posts. It cannot be said that a person is eligible for holding a post in a particular State and not eligible in another State, simply because the State has not been in a position to prepare the register. Therefore I think as it is desirable to preserve the principle I cannot accept the amendment of Mr. Sidhva. After all, the difference is only a matter of six months.

Shri Sidhva : I beg leave to withdraw my amendment.

The amendment was, by leave, withdrawn.

Mr. Speaker : The question is :

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

(MR. DEPUTY SPEAKER IN THE CHAIR)

Clause 4 (Amendment of the Schedule, Act XVI of 1948)

Shri Tyagi (Uttar Pradesh) **:** My amendment reads as follows :

In clause 4, for the proposed item (2A) of Part I of the Schedule to the Dentists Act, 1948, substitute **:**

"(2A) Any other institution imparting education or giving practical training in dentistry which the Central Government may, in consultation with the Central Council of Dentists, recognise for this purpose and on such conditions as the Government may deem fit to prescribe therefore."

I wish to confess that Dr. Ambedkar is a hard nut to crack. He has already said in his speech that the organisation mentioned in this sub-clause was defunct, whereas I was informed by a member of the council of Dentists that a Committee had been appointed to inquire into the conditions of this institution and that the Committee was already working on it. I don't want to make any aspersions on the institution. I don't know what its standard is, I have no personal knowledge of it, and that therefore I don't want to damage the reputation of the institution. But as an enquiry-is going on. I think instead of committing the whole Parliament to recognising that institution, it is better that the Government had reserved the right in their own hands to decide . . .

Dr. Ambedkar : We are not affecting the institution in any way. We are dealing with the degrees granted by that institution in 1940—eight years ago.

Shri Tyagi : Dr. Ambedkar expects me to believe that the degrees of an institution may be recognised without the institution itself being recognised. What I am suggesting is that he may even recognise that institution. I want Government to have powers to recognise any institution ....

Dr. Ambedkar : That power exists in section 10(2).

Shri Tyagi : Sir, I do not move my amendment.

Pandit Thakur Das Bhargava : I beg to move :

> "In clause 4, in the proposed item (2A) of Part I of the Schedule to the Dentists Act, 1948, omit all the words occurring after 'March, 1940'.

Therefore, as you have recognised all others as dentists on the basis of practise the principle of practise should also apply to these eight or ten mens. Therefore, I would request that this amendment may be accepted.

Mr. Deputy Speaker : May I know the reason of the Hon. Minister to this amendment ?

Dr. Ambedkar : This clause is a clause which really gives effect to the suggestion made by the West Bengal Government. Personally I myself feel, however much sympathy I may have with my friend Mr. Bhargava, it involves the question of the assessment of the qualification of the dentist as distinguished from a person who makes a denture. I thought he was rather eloquent on the man who makes a denture. A person may make a denture without being a dentist. We are talking of a dentist, which is a very different profession.

Pandit Thakur Das Bhargava : But he has got a degree of L.D.Sc.

Dr. Ambedkar : The point is this. When the Act was passed, this institution was not deemed to be worthy of recognition. Subsequently there has been a considerable degree of agitation and the West Bengal Government decided to examine the position as to whether any of the persons qualified by tuition in this college were worthy of recognition. They came to the conclusion that before 1940 the standard observed by this institution was some thing which could be considered for the purpose of recognition. But there again they said that although there was a standard maintained it was also known that many boys merely attended and filled in certain terms without learning anything. Therefore, the two additional qualifications were introduced that he should not only have obtained his diploma before 1940 but in the course

of being a student in that college he should have filled in certain terms. It is to make the qualification a real one, worthy of recognition, that these limitations were put in. I am personally prepared to place myself in the hands of the West Bengal Government who know the matter better, rather than substitute my own judgment, however great sympathy I may feel with the dentists themselves.

The Minister of Law (Dr. Ambedkar) : The wording of the article is that "the President may, for the purpose of removing any difficulties, particularly ..... etc." "Particularly" does not mean that he has not got the general power.

Mr. Speaker : As I have understood the point of order of the hon. Member, apart from the words, "any difficulties" and "particularly", he seems to construe article 392 as empowering the President to make adaptations only for purpose of transition from the provisions of Government of India Act to the provisions of the Constitution. That is substantially the point.

Dr. Ambedkar : That cannot be because it is a wrong construction. The point raised by my hon. Friend is that under article 392 the only power which the President possesses is confined to an adaptation of any section of the Government of India Act, 1935, so as to bring it in line with the provisions of the Constitution. My submission is that that is not correct, because the opening words in article 392 are quite general, namely, "The President may, for the purpose of removing any difficulties" and then "particularly etc." comes in. Suppose you were to drop the words "particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution" the wording would be "The President may, for the purpose of removing any difficulties, by order direct ..... etc.".

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(27)

* CODE OF CIVIL PROCEDURE (AMENDMENT) BILL

The Minister of Law (Dr. Ambedkar) : I beg to move :

"That the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

The object of this Bill is three-fold. The first one is to make the Civil Procedure Code applicable throughout India, except in certain areas which are specified in clause 2 of the Bill. As the House will remember, while the Civil Procedure Code extends to what are called Part A states, it does not extend to Part B States. Part B States have, each of them, their own Civil Procedure Code which is although more or less the same as the Civil Procedure Code which operates in Part A States yet it constitutes a separate jurisdiction. The result is that there is a great deal of difficulty in the service of summonses and in the execution of decrees passed by courts in Part A States within the areas covered by the courts of Part B States. Since India has become one under the provisions of our Constitution, it is desirable from the point of view of establishing civil jurisdiction in the matter of suits and processes and execution of decrees that there should be one single Civil Procedure Code. That purpose is achieved by clause 2.

The second object of the Bill is that there were certain matters which were not covered by the existing Civil Procedure Code even as it operates in Part A States. For instance, there was no provision for the service of foreign summonses from foreign courts. Again, there was no provision for the execution of decrees passed by civil courts in places to which this Code did not apply. Similarly, the execution of decrees passed by revenue courts in places to which this Code did not apply was also a matter not covered. Similarly, the provision for the

* P. D., Vol. 8, Part II, 9th February 1951, pp. 2627-32.

operation of commissions issued by foreign courts is also not provided for by our present Civil Procedure Code. In order to provide for these matters, there are introduced in this amending Bill clauses 6, 8, 9 and 11 which deal with them. They are by themselves so self-explanatory that I do not think that any observations of mine are necessary to make hon. members understand what is the purport of these new clauses.

The most important clause, of course, is clause 12 and it is with regard to it that I propose to offer some remarks. As will be observed, clause 12 substitutes sections 83, 85, 86, 87 and 87B. These sections deal with suits by aliens, by or against foreign Rulers, Ambassadors and Envoys. Now, the only sections in which certain changes have been made are 86 and 87B. So far as section 86 is concerned, it is really the old section 86 with some minor changes. The one change that is proposed to be made in section 86 is in sub-clause (2) (d). It deals with the waiving of a privilege given to the foreign Rulers, namely, that they shall be sued only under certain conditions and subject to the satisfaction of certain procedural rules. The question that has been raised is whether any such person covered by the provisions of section 86 can waive this privilege or whether, notwithstanding the fact that he is prepared to waive such privilege, nonetheless the statutory provision should be gone through. Some courts in India have held that this being a statutory privilege of a procedural character, it is not open to the party to waive it and that a person who wants to sue should follow the particular procedure. Now, it does not seem very right or correct that a person who has been given a privilege should be debarred from taking the benefit of that privilege if he thinks that he does not need or does not want the benefit of that privilege. In order, therefore, to set this matter right, this provision has been introduced which expressly says that a person who has been granted this privilege may waive it if he so desires.

The second clause in section 86 which makes a change and to which I wish to draw the attention of the House is sub-clause (4)(b). We have added to the old categories of privileged persons one more category, namely, the category of a High Commissioner stationed in India. The position of a High

Commissioner was up to now somewhat of an anomalous character. Is he an Ambassador? What is he? Whom does he represent? Does he carry the privileges as the representative of a foreign ruler does? In order, therefore, again to remove this ambiguity, it has been felt that it would be desirable to include the Ambassador in the category of privileged persons. There are, for instance, within our territory representatives of the Commonwealth who have been called High Commissioners and who from a diplomatic point of view occupy the same position as Ambassadors. Consequently, whatever may be the reason for making this distinction in their designation, factually, they do represent the heads of their Governments and it is, therefore, proper that they also should receive the same kind of consideration which an Ambassador does.

The other clause which makes a change in the old section 86, is clause 86, sub-clause (4), sub-clause (c). It says that the privilege granted to the heads of the foreign government, or to their Ambassadors and High Commissioners may also be extended to such members of their retinue and their staff as may be notified by the Government of India by public notification. Here again, from the point of view of international law there does not seem to be any unanimity. One set of international lawyers have held that when you once grant immunity or a privilege to the Ambassador as the representative of a foreign State and you do it on the ground that his little colony is a little bit of his country established here, there is no ground, legally speaking, for making any distinction between the man himself and the agents through whom he operates in this country. There are other international lawyers who have said that such privileges need not be extended to everybody, but a state is free to pick and choose as to whom it shall grant these privileges. Now as this matter is not settled in terms of international law, it is felt that the best course would be for the law to give the power to the Central Government to notify whom it shall extend this privilege. It would be possible under this clause for the Foreign Department of the Government of India to make enquiries as to the practice prevalent in other countries and to make

suitable notifications in order to be in conformity with the largest political international opinion in this country. This is all that we propose to do by way of changes in the old section 86 of the Civil Procedure Code.

Now, I come to section 87B in which I know most Members are deeply interested. Section 87 deals with the Rulers of the Former Indian States. The question is whether they should also be given any privileges, such as the one they had under the existing. Civil Procedure Code. Obviously, since they have ceased to be rulers in the political and legal sense of the term, they of course cannot claim any immunity from the operation of the law which is applicable to the rest of the citizens of this country. But the House will know that certain commitments have been made both by the Government of India and, if I may say so, also by the Constituent Assembly when the Constitution was before them, and it is necessary that we must recognise what we have already done. What is, therefore, proposed to be done by the new Section is to make section 85 and sub-sections (*1*) and (*3*) of Section 86 applicable to the Rulers of the former Indian States. If hon. members will refer to section 85 as put down in this amending Bill, they will find that it only says that when a foreign Ruler proposes to sue or if he is being sued, he may be permitted to appoint any particular individual, and the Government of India may permit him to do so, to conduct the litigation on his behalf either as a plaintiff or as a defendant. There is nothing wrong in extending this. The only privilege, so to say under section 85 that a ruler of a former Indian State gets is that he may not be required to attend personally when the suit is proceeding against him. He can defend by proxy.

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With regard to 86(*1*), it says that the consent of the Government of India may be necessary before any proceedings of a civil character are launched against a Ruler of a former Indian State. This matter, again, I believe, was considerably debated yesterday when we were dealing with the Bill to amend the Criminal Procedure Code. The point was that in the present circumstances, there are grounds to believe that those persons residing in the Indian States may have many grounds or reasons for giving effect to their grudge, to their

enmity, or personal hostility to a prince, and they may, without any *bona fide* reason drag him to a court and harass him. The object of requiring the consent of the Government of India is not that there shall be vested in the Government of India an absolute power to protect the prince from any kind of litigation in which the opponent may have a substantial ground for proceeding against him, but to see that the claim that is made against him is of a *bona fide* character. Beyond that there is no purpose in requiring this consent.

With regard to sub-clause (*3*) it gives him freedom from arrest and execution of decree against his property except with the consent of the central Government. As I said, these are merely, what I might say, fulfilment of certain undertakings that we have given in order to maintain the dignity of the Indian Rulers. Beyond that there is nothing.

I might also draw the attention of the House to the definition of the word "Ruler" which is given in section 87B (2) (*b*), I think that definition is important. It is not that every Ruler of a former Indian State will get the benefit of the provisions contained in section 87B. The definition is of a restricted sort, namely, that the Ruler must be recognized by the President as one entitled to these privileges. If a prince were to behave in such a manner that the President thinks that he ought not to be recognized, it would be perfectly possible for the President to delete his name from any notification, so that he would be reduced to the status of an ordinary citizen and be liable to the ordinary process to which every citizen will be liable in this country under the Civil Procedure Code.

The other clauses are just to clear any ambiguity, difficulty and so on. The most important clause is clause 12 and think I have given the House sufficient explanation as to the fundamental basis of the amendments which have been introduced by this Bill.

Mr. Speaker : Motion moved.

> "That the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

*** Dr. Ambedkar :** There is not much that calls for a reply.

But as certain points have been made I should like to make my position clear.

The first speaker who took part in this debate said that the provision contained in this Bill with regard to the immunity to be granted to the retinue of a diplomat was not in accord with international opinion. He felt that he was convinced that there was unanimity among the writers dealing with international law that not only the diplomat should get the privilege but also his retinues. I am sorry to differ from him. I have before me several extracts from treatises dealing with international law and I do not wish to weary the House by reading them. I can assure the House that I do not find any such unanimity from the extracts before me. It is on that account that the section has been worded in the way in which it has been worded. My friend will also realise that whatever may be the method of defining the positions, the result will not be in any way different if the clause is allowed to stand as it is. Because whether the immunity is granted by the section itself or whether it is granted by a notification issued under the section, the result cannot be very different.

His second point was that we were not justified in using the word "Ruler", because there are heads of States who are not called "Rulers". I should like to draw his attention to the fact that in drafting this clause we have been following practically the same language which has been followed in the existing Civil Procedure Code. I would like to draw his attention to the heading of section 83 of the Civil Procedure Code, also to section 85, sub-clauses (1) and (2) and section 86, where the wording which we have used is also the wording used there. There is therefore no departure from the language that has been adopted in the existing Civil Procedure Code. But in this connection I would like to draw his attention to the definition that we have given of a "Ruler" which is contained in proposed section 87A of the Bill which says :

> "Ruler" in relation to a foreign State, means the person who is for the time being recognised by the Central Government to be the head of that State."

* P.D., Vol. 8, Part II, 9th February 1951, pp 2646-62.

Therefore, whether any particular State has a monarchical form of Government and the Ruler is a monarch or whether any particular State has a republican form of Government with a President or some other dignitary at the head of it, it really cannot make any difficulty at all in view of the fact that our definition leaves the matter to the Central Government to State who is to be regarded as the head of the State.

Coming to the position of the Indian Rulers, I have been asked to clarify one or two things. One is how long these privileges are going to last, and then, secondly, whether the privileges are personal privileges of the present, existing Rulers or whether they have any hereditary character which will pass on from father to son. My lawyer friends will realise that a lawyer never undertakes to solve a problem unless the problem is present to him, before him. No such problem is present before me and therefore I am not in a position nor willing to commit myself to any particular interpretation.

Mr. Deputy Speaker : It is there : Rulers for the time being.

Dr. Ambedkar : Yes, for the time being. Therefore, what I am saying is that this is a matter which is open to consideration, to revision, at all times. It is not a matter which has been so to say taken out of the purview of Parliament or of Government. If Parliament so chooses, it can decide that these privileges and immunities shall end because enough time has intervened for us to suppose that these enemies of the Indian Princes have died out or disappeared without leaving any kind of progeny to harass them further, or they may take the view that these privileges may be permitted to last till the life time of the present holder. Therefore, the issue is quite open, not a closed one.

With regard to the assurances that have been demanded from me on behalf of Government as to how Government propose to utilise this power of granting or refusing consent, speaking for myself, I cannot have the slightest doubt in my mind that any Government or a Member of Government who may be dealing with this matter would ever think it advisable or proper to withhold consent in a matter where the claim

is absolutely *bona fide*. I have no doubt in my mind at all because any Member who might be dealing with such a matter would be answerable to the House.

Pandit Kunzru (Uttar Pradesh) **:** Sir, it is past one o'clock now.

Mr. Deputy Speaker : If possible let us complete the first reading now.

Pandit Kunzru : The Hon. Minister might take half an hour.

Mr. Deputy Speaker : How long will the Hon. Minister take to finish?

Dr. Ambedkar : I will not take long, Sir.

My friend, Mr. Sarwate, in his anxiety to criticise Government for giving certain privileges to the former Rulers of Indian States said that he did not quite understand why sub-section (2) of section 86 was not made applicable to the Indian Princes, I am sure my friend, Mr. Sarwate, will realise that we have done the wisest thing in not applying it because if we had applied it Government would have been debarred from giving any consent to a suit against a Prince unless the four conditions mentioned in sub-section (*2*) had been satisfied. Clauses (a), (b), (c) and (d) embodied in sub-section (*2*) of section 86 are really rules of International law. There can be no dispute about them and we don't want to treat the Indian Princes on the same footing as ambassadors or heads of States or Rulers of other foreign States. The immunity that we have granted therefore, is of a very small dimension. If sub-section (2) had been made applicable the thing would have been worse.

I do not think, therefore, that any serious objection can be levelled against this Bill.

Mr. Deputy Speaker : The question is :

> "That Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

The motion was adopted.

Mr. Deputy Speaker : The House will stand adjourned till 2-35 p.m.

The House then adjourned for Lunch till Thirty Five Minutes Past Two of the Clock.

The House re-assembled after Lunch at Thirty Five Minutes Past Two of the Clock.

[MR. DEPUTY-SPEAKER *in the Chair*]

Clauses 2 and 3

Clauses 2 and 3 were added to the Bill.

Clauses 4 to 11

Shri Raj Bahadur (Rajasthan) **:** I have an amendment to clause 4 but I would not like to move it formally. I only want to say one thing. Nowhere in the Constitution has the Central Government as such been empowered to constitute a court. The authority that is there in this behalf is exercised in the case of the Supreme Court by the President and in the case of the courts in the States by the Governor of the State. My objection pertains only to this point. I think that if we simply substitute the words "under the authority of the Constitution" for the words "Central Government" it would be much better.

Dr. Ambedkar : I Cannot accept the suggestion. The Constitution has established certain courts—the Supreme Court and the High Courts. As far the establishment of special courts, Parliament has been given the power and the Central Government can act under the authority given by Parliament. Therefore, it is inappropriate to use the words "the Constitution of India". Besides, "Central Government" has been used throughout in all the adaptation orders and I think it would be very unfortunate if a departure is made in the matter of terminology in this particular Bill.

Mr. Deputy Speaker : So, the hon. Member's point is answered. I shall put clauses 4 to 11 together as there are no amendments to them.

The question is :

"That clauses 4 to 11 stand part of the Bill."

The motion was adopted.

Clauses 4 to 11 were added to the Bill.

Mr. Deputy Speaker : On a point of information, in regard to clause 9 may I know from the Hon. Minister what is the need for saying "execution of a decree of any revenue court in any State in any other State". Could it not be "a revenue court in that State"? Why should it be augmented?

Dr. Ambedkar : The object of putting it in larger terms is to facilitate.

Dr. R. U. Singh : When the general discussion on the motion for consideration was on, I raised the same point and the Hon. Law Minister was pleased to say that the word 'Ruler' is used in some of the sections of the Civil Procedure Code under discussion. I have looked through the various sections of the Civil Procedure Code which are under discussion under clause 12 of the amending Bill, and I dare say that the word 'Ruler' is not used anywhere else. As I said earlier, it is only the sub-title that uses the word "Foreign Rulers". In the sections themselves the word 'Ruler' is not used. 'Ruling chiefs' may have been used because this term was in vogue in this country or some such term may have been used, but I dare say, Sir, the term 'Ruler' has not been used.

As the provisions of the Civil Procedure Code stand, it was not necessary to define the term Ruler. The point that was made by me was that it has been done unnecessarily and I reinforce that argument by saying that when we are dealing with questions of International Law, we might use terminology which is familiar to International Law. I observe that the term "Ruler" is not used. The words used generally are, "Head of a State" or "Sovereign", "foreign State" or "Foreign Sovereign". I do think that Government have taken pains unnecessarily to introduce the term "Ruler". I do feel that if the word 'Head' only is substituted now, because they have re-arranged the section and framed the thing in such a manner, some of the clauses will become clumsy. In some places 'Head of the State' will have to be used, in some places 'Head' only will do. Therefore, while sticking to my original point of view, I observe that it is unhappy that the term "Ruler" has been used. I think the clumsy phraseology used

in the amending Bill may be allowed to stand. Or if that is not to stand, then, in some places, the word "Head" has to be used and in other, the ;erm "Head of a Foreign State" has to be used, because the draftsmen have some-how rearranged the clauses in such a manner that there is no escape from this position.

Dr. Ambedkar : I am really at a loss to understand why my hon. friends are unhappy over the phraseology that has been used in this Bill My hon. friend Mr. Raj Bahadur says that it is better to distinguish foreign Rulers from Indian Rulers by giving them a different name. Supposing that was true, would it not be necessary again to define "Head of a Sate".

Shri Raj Bahadur : No, no .....

Dr. Ambedkar : In the United States of America, there is the President; in Great Britain, there is the King; in Switzerland, there is some other machinery to represent the State. If the facts are various, you will have to have a definition of "Head of State".

Another hon. Member says that he has examined the provisions of the Civil Procedure Code to which I made reference in the morning. He thinks that the words that we have used in this amending Bill do not occur there. I hope he has got a copy of the Civil Procedure Code in front of him.

Dr. R. U. Singh : I have got it here.

Dr. Ambedkar : Please look up the heading of section 83.

Dr. R. U. Singh : That I stated earlier.

Dr. Ambedkar : The heading is, "Suits by Aliens and by or against Foreign Rulers and Rulers of Indian States." I would like to draw his attention also to the fact that this amendment was made in 1937 by the adaptation of Indian Laws Order. I cannot say that I am quite up-to-date in the matter of International Law and the phraseology that they use. But, I am quite content in saying that any one who made this Adaptation—and he will permit me to say that the adaptation was made by the India Office—must have been advised by some Parliamentary Lawyer, who could not have gone very much wrong in using the phraseology 'Foreign Rulers'

Then, he says that the term 'Ruler of an Indian Sate' has never been used in sections 83 onwards. I quite agree that a variety of designations have been used. The Indian Rulers have been called Princes, Rulers, Chiefs and so on. But, what I want to submit is this. When the Constitution by several articles has given them a particular description, namely. 'Rulers of Indian States', is it permissible for the draftsmen to use a language other than the one that is used in the Constitution? The Justification for using the words "Rulers of Former Indian States" is simply that that is the language that is used in the Constitution. We do not want to have any departure from the language used in the Constitution so as to leave it open to anybody like my hon. friend Mr. Naziruddin Ahmed to come up and say, "well, this provision does not apply to the people to whom it is intended to apply."

Mr. Speaker : The question is :

In clause 12 in the proviso to the proposed new section 84 of the Code of Civil Procedure, 1908, for "Ruler" substitute "Head",

The motion was negatived.

Similar 3 other motions were negatived

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* **Dr. R. U. Singh :** ..... So far as the immunity of the Rulers of the Indian States is concerned, we do not have any such assurance from the Law Minister, in regard to things done even in their personal capacity. We are concerned with that aspect of the question. It has not been said that a certain amount of notice would be sufficient or some such thing. The immunity now sought to be conferred on them is much greater than the immunity conferred on the Head of the Indian Republic, as also the Heads of the various States of the Union. And if Government would indicate their mind and their policy in this regard, as to the duration of the immunity and the extent of that immunity—I dare say it ought not to be very wide—it would be extremely nice indeed..

* P. D., Vol. 8, Part VIII, 9th February 1951, pp. 2664-65.

Dr. Ambedkar : Before recess, I was also called upon to answer some of the questions which have been raised by my friend. I think I gave replies to those which I thought one should very safely give, and I do not know that I have anything further to add to what I have said. All that I would like to say now is this. My hon. friend if he will forgive my saying so, seems to lack sufficient imagination.

Shri R. U. Singh : All lawyers do not have much of it.

Dr. Ambedkar : Lawyers sometimes have very long imagination. If he had sufficient imagination he should have realised the fact that the Constituent Assembly very definitely and very rightly said that whatever was included in the covenant made before a certain date, matters contained in it were not justiciable. Now, I think that was a very great protection and a very important fact. It means that Parliament or Government is free to make any change it likes, notwithstanding the fact that the matters were mentioned in the convenant. That being so, I think the House at any rate, should feel satisfied that the future is in no way closed or dark. I do not think that anybody would expect me to say anything more than that.

Mr. Speaker : The question is :

In clause 12, omit the proposed new section 87B.

The motion was negatived.

Mr. Speaker : The question is :

"That clause 12 stand part of the Bill,"

The motion was adopted.

Clause 12 was added to the Bill.

Clauses 13 to 18 were added to the Bill.

Clause 19.—*(Special Provisions etc.)*

Amendment made :

In Clause 19, *omit* "Code of" occurring in line 2.

—[Dr. Ambedkar]

Clause 19, as, amended, was added to the Bill.

Clause 20 was added to the Bill.

Clause 1.—(*Short title etc.*)

Amendment made :

In Sub-clause (1) of clause 1, for "1950", substitute "1951".

—[Dr. Ambedkar]

Clause 1, as amended, was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Ambedkar : I beg to move :

"That the Bill, as amended, be passed."

Mr. Speaker : The question is :

"That the Bill, as amended, be passed".

The motion was adopted.

(28)

*PART B STATES (LAWS) BILL

The Minister of Law (Dr. Ambedkar) : Sir, I move for leave to introduces Bill to provide for the extension of certain laws to Part B States.

Mr. Speaker : The question is :

"That leave be granted to introduce a Bill to provide for the extension of certain laws to Part B States."

The motion was adopted.

Dr. Ambedkar : Sir, I introduce the Bill.

**PART B STATES (LAWS) BILL

The Minister of Law (Dr. Ambedkar) : I beg to move :

"That the Bill to provide for the extension of certain laws to Part B States, be taken into consideration."

The Bill is a very simple one...

An Hon. Member : As all other Bills are.

Dr. Ambedkar : Much simpler than the others. The object of the Bill is this. There are certain Acts passed by the Central Legislature which on account of the jurisdiction formerly exercised by the Central Government were confined in their operation to Part A States only. Part B States (formerly called the Indian States) which were sovereign and independent, had their own laws which might be compared to the laws passed by the Central Legislature under Lists I and III. Now this Parliament has obtained jurisdiction over the territories covered by Part B States so far as Lists I and III are concerned. There are already in existence a large number of Acts passed by the Central Legislature covering the field of Lists I and III, which on account of their territorial limitation did not apply

* P. D., Vol 6, Part II, 20th November 1951, p. 183.

** P. D., Vol 8, Part II, 9th February 1951, pp. 9665-66.

to Part B States. It is for this purpose that this Bill has been brought forward.

Hon. Members will see that to this Bill is added a Schedule giving the list of Acts which it is proposed under the powers given by this Bill to be extended to Part B States. There are altogether 135 Acts, so far as I have computed them, which are sought to be extended to Part B States.

While seeking to extend the Central Acts to Part B States it is felt that these Acts themselves required some small amendment according to the views of the various administrative departments of the Government of India which are working these Acts. Consequently the occasion which now exists for the purpose of extending these 135 Acts is also utilised for the purpose of making certain amendments in these Central Acts, so that when this Bill is passed, not only these Acts will come into operation in Part B States but they will also come into operation in the form in which they are modified by the provisions contained in the various Acts in the Schedule as mentioned therein. I do not think any controversy is likely to arise over the principle of this Bill.

There are one or two omissions which we have discovered since and I propose to move amendments in order to bring them under this Schedule.

Mr. Speaker: Motion moved:

> " That the Bill to provide for the extension of certain laws to Part B States, be taken into consideration. "

*** Dr. Ambedkar:** With regard to the point made by my friend from Travancore-Cochin, Shri Sivan Pillay the position is quite easy as I see it. There are some laws which are sought to be extended by this Bill which fall in the Concurrent List. Consequently, it would be open to any State in India to amend these laws in the manner that they wish to do. To take his illustration, namely, the Indian Penal Code, it is quite true that the Indian Penal Code sanctions death as one of the

* P. D., Vol 8, Part II, 9th February 1951, pp. 2669-77.

penalties. It is equally true, as he has said, that the Penal Code as it now operates in Travancore abolishes that penalty. Well, after the Indian Penal code has been made applicable under this Act, it would be perfectly possible for the Travancore-Cochin Legislature to pass an amending Bill and amend the Indian Penal Code in the way they wish to do. Consequently, so far as the laws which fall under the Concurrent List are concerned, all States in India which have the power to make laws will certainly make laws to suit their circumstances.

With regard to the point made by my other hon. friend, it seems to me that he has not read correctly the provisions of clause 3 of this Bill which says :

> "The Acts and Ordinances specified in the Schedule shall be amended in the manner and to the extent therein specified ".

Therefore, this Bill is both a Bill to amend and also to extend. Of course, he might stay that this is a very inelegant method of legislation, but let him consider his plan of doing the thing. We will have to stay here and pass 135 different laws, first to amend and then to extend. I think it is desirable, although it may not be quite so straight or elegant, to adopt the summary procedure that has been adopted in this Bill, namely, both to amend and to extend. I do not think my hon. friend will have any quarrel after this explanation.

Mr. Speaker: The question is :

> " That the Bill to provide for the extension of certain laws to Part B States, be taken into consideration. "

The motion was adopted.

Clauses 2 to 6.

Clauses 2 to 6 were added to the Bill.

Clause 7.—*(Power to remove difficulties)*

Amendment made:

In sub-clause (2) of clause 7, after part (b) insert:

> "(c) specify the areas or circumstances in which, or the extent to which or the conditions subject to which, anything done or any action taken (including any of the matters specified in the second proviso to

section 6) under any law repealed by that section shall be recognised or given effect to under the corresponding provision of the Act or Ordinance as now extended. "

—[Dr. Ambedkar]

Clause 7, as amended, was added to the Bill.

The Schedule

Dr. Ambedkar: I was wondering whether all the amendments to the Schedule standing in my name may be taken as moved.

Mr. Speaker: Is the House agreeable to this course?

Hon. Members: Yes, Sir.

Shri Shiv Charan Lal: I would like to have clarification on one point before you put these amendments to vote. On page 4 of the schedule, under the Government Savings Banks Act, 1873, it is said that that Act would not apply to any deposits made in the Anchal Savings Bank of the State of Travancore-Cochin. It is not clear to us why it won't apply to this Bank.

Dr. Ambedkar: I am afraid it would be very difficult for me to reply to the various queries. I should therefore like to explain my position. This Bill is like a supplementary estimate which the Finance Minister puts before the House, although the actual responsibility of defending the different estimates falls upon the different Ministers who are responsible for them. I am merely sponsoring what the other Departments desire should be done. I am sorry that the Finance Minister is not here, otherwise, he might have explained to my friend exactly why he wants this particular amendment to be made. All the same, I hope that my friend will agree that this must have been done after very deliberate and mature consideration.

Mr. Speaker: I do not wish to raise any objection, if the House has none, but this is not a satisfactory procedure. An hon. Member is entitled to know before he votes what he is called upon to vote and why. Even if the position be like the supplementary estimate, it should be the practice to append some kind of notes for the benefit of hon. Members explaining

the reasons why they are called upon to vote for a certain proposition.

Dr. Ambedkar: It is a very valuable suggestion. We shall try and follow it up.

Mr. Speaker: What is the present position of Shri Shiv Charan Lal ? Is he agreeable to vote for it without knowing the reasons?

Dr. Ambedkar: We shall insure any risk, if he is undergoing one.

Mr. Speaker: It does not mean that he doubts the correctness or the soundness of the proposition, but still as a Member he is entitled to know the reason.

Shri S. V Naik (Hyderabad)**:** On page 5 of the list of amendments to the Schedule, under the heading "Currency Ordinance, 1940" after section 2, certain temporary provisions with respect to Hyderabad one-rupee notes are made. I would like to know what will be the position in regard to the other currencies that are prevalent in the Hyderabad State.

Dr. Ambedkar: I shall have to answer in the same way that I have done before. I can inform the Hon. the Finance Minister and he will probably communicate to the hon. Member what is the answer.

4 P.M.

I have one more amendment to the schedule. I request that that may also be taken as moved.

Amendments made:

1. In the schedule, under the heading "The Indian Oaths Act, 1873", for the item relating to section 1, substitute :

"Section 1.—"except Part B states" substitute "except the States of Manipur and Jammu and Kashmir".

2. In the Schedule, after entry relating to "The Partition Act, 1893", insert:

"The Livestock Importation Act 1898 (IX of 1898) ,

Section 1.—For sub-section (2) substitute :

(2) It extends to all Part A States, Part C States and the States of Saurashtra and Travancore-Cochin'."

3. In the Schedule, under the heading " The Indian Coinage Act, 1906 ", for the last item substitute :

"After section 23, insert the following, namely:

' 24. temporary provisions with respect to certain Part B States Coins.—Notwithstanding anything in section 6 of the Part B States (Laws) Act, 1951, coins of such description as at the commencement of the said Act were in circulation as legal tender in any Part B State shall continue to be legal tender in that State to the like extent and subject to the same conditions as immediately before the commencement of the said Act for such period, not exceeding two years from such commencement, as the Central Government may, by notification in the *Official Gazette,* determine.' "

4. In the Schedule, under the heading "The Indian Companies Act, 1913", after the item relating to the new section 2B, insert:

" Section 144.—After sub-section (*1*) insert:

(2) Notwithstanding anything contained in sub-section (*1)* but subject to the provisions of rules made under sub-section (*2A*), the holder of a certificate granted under a law in force in the whole or any portion of a Part B State immediately before the commencement of the Part B States (Laws) Act, 1951, entitling him to act as an auditor of companies in that State or any portion thereof shall be entitled to be appointed to act as an auditor of companies registered anywhere in that State.

(2A) The Central Government may, by notification in the *Official Gazette,* make rules providing for the grant, renewal, suspension or cancellation of auditors' certificates to persons in Part B States for the purposes of sub-section (*2*), and prescribing conditions and restrictions for such grant renewal, suspension or cancellation'."

5. In the Schedule, after the entry relating to the " Indian Copyright Act, 1914 ", insert:

"*The Cinematograph Act, 1918 (II of 1918)*

Section 1.—In sub-section (2), omit "Hyderabad and'."

6. In the Schedule, after the entry relating to "The Indian Bar Councils Act, 1926 ". insert:

" The Child Marriage Restraint Act, 1929 (XIX of 1929).

Section 1.—In sub-section (2), for 'except Part B States' substitute 'except the State of Jammu and Kashmir'."

7. In the Schedule, under the heading "The Petroleum Act, 1934", in the item relating to section 1. for "For" substitute "In sub-section (2), for".

8. In the Schedule, after the entry relating to "The employment of Children Act, 1938", insert:

" The Motor Vehicles Act, 1939 (IV of 1939)."

Throughout the Act, unless otherwise expressly provided, for the States' substitute 'India'.

Section 1.—(a) In sub-section (2), for 'except Part B States' substitute 'except the State of Jammu and Kashmir';

(b) for sub-section (*3*), substitute:—

'(3) Chapter VIII shall not have effect in any Part B State to which this Act extends until the Central Government, by notification in the *Official Gazette,* so directs, and notwithstanding the repeal by section 6 of the Part B States (Laws) Act, 1951, of any law in force in that State corresponding to the Motor Vehicles Act, 1939, the corresponding law, in so far as it requires or relates to the insurance of motor vehicles against third party risks shall, until Chapter VIII takes effect in that State, have effect as if enacted in this Act.'

Section 2.—(a) after clause 9 insert

'(9A) 'India' means the territories to which this Act extends':

(b) omit clause (29A).

Section 9.—(a) In sub-section (2), for 'In any Part B State', substitute 'in the State of Jammu and Kashmir';

(b) In sub-section (4),—

(i) for 'any Part B state or' substitute 'the State of Jammu and Kashmir or any'; and

(ii) for 'in any State' and 'in any such State' substitute 'in the State'.

Section 28.—(a) In sub-section (2), for 'any part B State' substitute 'the State of Jammu and Kashmir';

(b) in sub-section (5),—

(i) for 'any Part B State or' substitute 'the State of Jammu and Kashmir or any';

(ii) for 'registration in such State' and 'registration in any State' substitute 'registration in the State '; and

(iii) for ' issued in any such State' substitute 'issued in the State'.

Section 42.—In sub-section (*3*),—

(i) in clause (a), for 'the Government of a Part A State' substitute 'a State Government';

(ii) in clause (h), for 'any Part B State or' substitute ' the State of Jammu and Kashmir or any.'

Section 133.—For 'the Legislature of a Part A State' substitute 'the State Legislature'.

The Sixth Schedule.—For the table, substitute the following:—

Assam	...	...	AS
Bihar	...	...	BR
Bombay	...	...	BM, BY
Madhya Pradesh	...	...	CP, MP
Madras	...	...	MD, MS
Orissa	...	...	OR
Punjab	...	...	PN

Uttar Pradesh	...	...	UP, US
West Bengal	...	...	WB, WG
Hyderabad	...	...	HT, HY
Madhya Bharat	...	...	MB
Mysore	...	...	MY
Patiala and East Punjab States Union		...	PU
Rajasthan	...	...	RJ
Saurashtra	...	...	SS
Travancore-Cochin	...	...	TC
Ajmer	...	...	AJ
Bhopal	...	...	BS
Bilaspur	...	...	BL
Coorg	...	...	CG
Delhi	...	...	DL
Himachal Pradesh	...	...	HI -
Kutch	...	...	KH
Manipur	...	...	MN
Tripura	...	...	TR
Vindhya Pradesh	...	...	VP
Andaman and Nicobar Islands	...	...	AN' "

9. In the Schedule, under the heading " the Protective Duties Act, 1946 ", omit the last item relating to section 2.

10. In the Schedule, omit the entry relating to the Employees' State Insurance Act, 1948, (XXXIV of 1948).

11. In the Schedule, omit the entry relating to "The Transfer of Detained Persons Act, 1949 (XLV of 1949)".

12. In the Schedule, under the heading "The Currency Ordinance, 1940 ", after the item relating to section 2, insert;

" After section 2, insert the following, namely:—

"2A. *Temporary provisions with respect to Hyderabad one-rupee notes*.—Notwithstanding anything contained in section 6 of the Part B States (Laws) Act, 1951, notes of the denominational value of one rupee which at the commencement of the said Act were in circulation as legal tender in the state of Hyderabad shall continue to be legal tender in that state to the like extent and subject to the same conditions as, immediately before the commencement of the said Act and for such period, not exceeding two years, from such commencement, as the Central Government may, by notification in the *Official Gazette,* determine'."

13. In the Schedule, insert the following as the first entry:

"The caste Disabilities Removal Act, 1850 (XXI of 1850)

Long title and preamble.—For 'the territories subject to the Government of the East India Company' substitute 'India'

Section 1.—(1) For 'the territories subject to the Government of the East India Company' substitute 'India' and for 'in the courts of the East India Company and in the courts established by Royal Charter within the said territories' substitute 'in any court'.

After section 1, add the following section, namely:—

2. *Short title and extent.*—(1) This Act may be called the Caste Disabilities Removal Act, 1850.

(2) It extends to the whole of India, except 'the State of Jammu and Kashmir'. "

—[Dr. Ambedkar]

The Schedule, as amended, was added to the Bill.

Clause 1.—*(Short title etc.)*

Amendment made:

In sub-clause (1) of clause 1 and elsewhere in the Bill where there is a reference to the Part B States (Laws) Act, 1950, for " 1950 " substitute "1951".

—[Dr. Ambedkar]

Clause 1, as amended, was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Ambedkar: I beg to move :

"That the Bill, as amended, be passed."

Mr. Speaker: Motion moved :

"That the Bill, as amended, be passed."

Capt. A. P. Singh (Vindhya Pradesh)**:** Sir, I would like to draw your attention to one point. The statement of Objects and Reasons lays down that "for the purpose of improving the administration", and as such I oppose it; although this is not a part of it and so no amendment could be put forth in this connection.

Mr. Speaker : Order, order. The hon. Member is too late. I may inform him, however, that a protest on this same point was raised by another Member of this House previously.

Dr. Ambedkar: I would like to apologise, Sir.

Mr. Speaker : The question is :

" That the bill, as amended, be passed."

The motion was adopted.

PREVENTIVE DETENTION (AMENDMENT) BILL

*** The Minister of Home Affairs (Shri Rajgopalachari):** ..... I was coming here in a hurry for I heard that Dr. Ambedkar was able to get through two solid Bills in this House as I had not at all anticipated last evening. It seems to me that people treat me much worse than they treat Dr. Ambedkar.

The Minister of Law (Dr. Ambedkar): I am a Harijan; you are not.

LAYING OF ADAPTATION ORDER ON THE TABLE

**** Mr. Deputy Speaker :** Dr. Ambedkar.

The Minister of Law (Dr. Ambedkar): Mr. Deputy Speaker, Sir.....

Shri Syamnandan Sahaya (Bihar)**:** Sir, before the Law Minister begins, may I make a submission? Now we have got an idea of the work to be done by Parliament up to the 16th. But we do not yet know what Bills or other legislative measures or other work will be taken up on the 17th of this month and ...

Shri Sidhva (Madhya Pradesh)**:** There is the agenda up to the 19th.

Shri Syamnandan Sahaya : But it only says whether the business will be official or non-official.

Shri Sidhva : No, they are all official Bills. We got it today.

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* P. D., Vol 8, Part II, 9th February 1951, p. 2679.

** P. D., Vol 10, Part II, 12th April 1951, p. 6659.

Dr. Ambedkar: Mr. Deputy-Speaker, yesterday, my hon. friend Mr. Hussain Imam raised a question with regard to an answer which I gave to a question put by Pandit Bhargava with regard to the Adaptation Order issued by the President. Unfortunately I was not present in the House. I wish he had given me previous notice that he was going to raise this matter; I certainly would have been present in the House to give him the answer. From the proceedings, extracts from which were supplied to me yesterday evening. I find that he raised two questions. One question which he raised was that he was not able to obtain a copy of the Adaptation Order although he made an effort to get one. On that point, the facts which I have been able to ascertain are these. The Adaptation Order was published in the Gazette Extraordinary dated the 4th instant. I gave my reply on the 7th. Copies of the Adaptation Order, or rather, of the Gazette, were received in the Constitution Branch on the 10th, the date on which he sent a telephonic message to the Constitution Branch, enquiring as to what had happened to the copies of the Adaptation Order. My information is that the Superintendent whom he contacted on that matter told him that the copies of the Gazette Extraordinary had just reached him and that he was examining whether there were any clerical or printers' errors. I am told that my hon. friend did not specifically ask for a copy. I do not know, he is in a better position to confirm this or not.

Shri Hussain Imam (Bihar)**:** I asked for it in the Notice Office and in the Library.

Dr. Ambedkar: I am telling what happened in the Superintendent's branch. That being so, the hon. Member was not directly supplied any copies from the Constitution Branch. It is obvious that if the copies were received by the Superintendent on the 10th it was not possible for him to supply copies to the Notice Office for distribution among Members of Parliament. That is the position so far as the first complaint is concerned.

I find from the proceedings, extracts of which were sent to me, that the hon. Member also raised a question of privilege.

What I understood him to say was that as soon as an Adaptation Order is made by the President, it ought to be placed on the Table of the House. Now, Sir so far as that point is concerned, my submission is this. Whatever privileges this House has, they are regulated by article 105 of the Constitution which says that the Parliament shall have all the privileges which the House of Commons has. That takes us to an enquiry as to whether, when laying a paper on the Table of the Parliament is a matter of privilege and when it is not a matter of privilege. Referring to May* one thing is quite clear....

Mr. Deputy Speaker: I am sorry to interrupt the Hon. Minister. So far as the question of privilege is concerned first of all the Speaker looks into the matter, goes through the rules and regulations and then ascertains the opinion of the House. If he comes to the conclusion that a matter of privilege is involved, he then sends it to the Privileges Committee. I do not think the hon. Member seriously raised a question of privilege. The question was that a copy of the Adaptation Order ought to be made available. He went to the Notice Office and also to the Library. He said that the Adaptation Order was made as early as the 4th April and therefore normally expected it to be placed in the Library in a day or two. Now that the matter has been made clear by the Law Minister we need not go further into the question of privilege.

Dr. Ambedkar : If that is your ruling I would not pursue the matter. But I only wanted to submit one point which 1 think is of general interest and which the House should know. A matter of privilege can arise only when a statute makes it obligatory upon the government that a paper should be laid on the table of the House. Now so far as the Adaptation Order is concerned there is no such obligation at all. I would like hon. members to compare article 372, which deals with Adaptation, with article 392 which deals with an order made by the President for the removal of difficulties in the Constitution during the transition period. It will be found that so far as article 392 is concerned there is a specific sub-clause which says that any order made by the President for the removal of difficulties shall be placed on the table of the

* May's Parliamentary Practice—*ed.*

House. There is no such proviso with regard to article 372. Therefore my submission was that there is really no privilege involved and the question of breach of privilege therefore cannot arise.

Pandit Maitra (West Bengal)**:** Sir, are you going to allow a general discussion as to whether or not this is a question of privilege ....

Shri Bharati (Madras)**:** The Chair has already ruled that there was no question of privilege.

Mr. Deputy Speaker: I am not deciding the question of privilege at all. In as much as there was a reference by Mr. Husain Imam to the word privilege, the Hon. Law Minister thought that he must answer that other point also. He has now placed his view point. That question does not arise now and therefore I will not go into it.

[MR. DEPUTY-SPEAKER *in the Chair*.]

***Mr. Deputy Speaker:** The hon. Member may resume after we hear the Hon. the Law Minister.

Dr. Ambedkar: Sir, I have applied my mind to the points which you were good enough to put to me and I would like to submit my opinion about those points.

The real question that the House has to consider is whether this Bill offends against Article 117—either clause (1) of that article, or clause (3) of that article. Those are the main points that are to be considered and the clauses which require to be considered in the light of Article 117 are clauses (4), (5) and (6) of the Bill.

I should take clauses (5) and (6) together. Now it is contended that those clauses offend against clause (1) of Article 117. The validity of that contention must depend upon the meaning that is to be attached to the word "appropriation" occurring in sub-clause (d) of clause (1) of Article 110 which defines what is a "Money Bill". Now, I am quite certain in my mind that the word "appropriation" which is used in

* P. D., Vol. 10, Part II, 12th April 1951, pp. 6725-27.

sub-clause (d)—and I have verified myself by reference to May's " Parliamentary Practice " where this matter has been discussed at great length—is a term of art and it involves two things: first the naming of the service, the particular service, and secondly the exact allotment of money to be spent on that particular service. It is these two things that go to make what we know now as appropriation and it is in that sense that the word is used both in Article 114 and Article 266 of the Constitution.

Reading the two clauses 5 and 6 in the Bill I do not think it is possible to import into those two clauses any such thing as we now understand by the term " appropriation". They are, in my judgment, mere directions to the Government that this is a service on which money may be spent which Government may or may not spend. Therefore, so far as Article 117, clause (1) is concerned, the Bill, it may be said, sails clear and no difficulty can arise on that account.

Now, I turn to clause 4 of the Bill. There, we have to consider whether that clause offends against clause (3) of Article 117. My conclusion is that it does, because clause 4 of the Bill imposes a liability upon the Government to undertake a service which, if the Bill is passed by this House, would undoubtedly involve expenditure out of the Consolidated Fund. Therefore, it would require a recommendation from the President under the provisions of clause (3) of Article 117.

The question that remains for consideration is this. At what stage must the recommendation of the President be forthcoming? The word used there is " consideration ". It has been contended that " consideration " means the very initation of the Bill. I am afraid I cannot agree with that contention. A bill has two stages: the first stage is called in our parlance " Introduction ", which is different from ' consideration '. After a Bill is introduced, then the stage of consideration begins and the stage of consideration continues from that point when the Bill is taken up by the House after the stage of introduction, until it is passed. During that interval the proceedings are proceedings in respect of consideration of the Bill. Therefore, in my humble opinion, if before the motion for passing is put,

a recommendation is obtained, that would meet the requirements of clause (3) of Article 117. But while that is so, I think there is one practical point which must be considered. The House must not readily assume that the President will give his assent or recommendation whenever it is asked. If a financial liability is involved, the President will have to consider the matter in detail and find out whether the financial condition of the country is such as he could agree to take more financial liability. It is possible that the President may refuse his recommendation, in which case the labour spent by the House would be wasted. I think, therefore, there is no harm in adopting or suggesting the rule that whenever there is any bill projected before the house which involves or is likely to involve expenditure from the Consolidated Fund, the House should insist that immediately, before the consideration stage begins, the Member in-charge should produce a recommendation from the President so that the House may be engaged in labours which may ultimately not turn out to be fruitless.

Mr. Deputy Speaker: We have heard this point *in extenso*. I entirely agree with the Hon. the Law Minister in coming to the conclusion that 'appropriation' as used in Article 110, Sub-clause (1) (d) is only a term of art and it applies only to cases which are referred to in Article 114. Therefore the provisions do not militate against the provisions of Article 117 (1). Of course, it involves expenditure from the Consolidated Fund and therefore comes within the purview of sub-clause (3) of Article 117.

***Mr. Chairman :** So far as the word "mechanical" goes it appears the defect must be something relating to the machine. So far as the word "construction" used by Mr. Sidhva goes, it does not look quite opposite. The word "structural" better explains the meaning. At the same time, if both the words are taken away the wording will be merely "defective" which perhaps will be more vague than now. So

* P. D., Vol 10, Part II, 18th April 1951, pp. 7006-8.

far as the powers given in clause 19 are concerned, the wording is, "prescribe the power, duties and functions of the registering authority and the local limits of their jurisdiction." If a rule can be made that it will be the duty of the registering authority to look into the structure of the ship also, then I think this lacuna may be covered. But I leave that to the House to decide. If the hon. Minister wants to change the wording. I will certainly permit an amendment at this stage.

Shri S. C. Samanta (West Bengal)**:** May I suggest that we say, "mechanically or otherwise defective"?

Shri Santhanam: You are making it more vague.

Pandit Munishwar Datt Upadhyay (Uttar Pradesh)**:** If the word "mechanical" is dropped and only " defective" remains, then all sorts of defects can be covered by the rules.

The Minister of Law (Dr. Ambedkar): May I say a word as it strikes me? I have not seen the Bill and therefore I am speaking from such impression as I have formed. The main object of the Bill is to secure safety. Now, safety depends, so far as I understand it, upon the mechanical structure of the ship and not upon structure in the sense of its shape or size. Therefore a distinction, I think requires to be made between the two, the structural defect which has nothing to do with the ship, and the mechanical defect which has something, in fact greatly, to do with the safety of the ship. The object of the Bill is to secure safety and therefore emphasis must necessarily be laid upon the mechanical side of the ship and not so much upon the structural side. A man may have, for instance, an oblong ship; a ship may be something whose bottom may be very different from the others.

Shri Sidhva: That is a defect.

Dr. Ambedkar: What I want to know is, what is a structural defect? One man may say, " From my point of view it is a structural defect. It ought to have been in some other shape." Another man may say, " It ought to be of some other shape." The submission I am going to make is this, that the Bill aims at securing the safety of the passengers; the safety of the passengers essentially, mainly, fundamentally depends

upon the mechanism of the ship, and therefore what is necessary in the matter of giving a certificate by the surveyor is that he should see whether there is any mechanical defect. That is my submission.

Shri Venkataraman: May I ask the Law Minister……

Dr. Ambedkar: This is no question of law. I am only speaking as one of the Members of the House.

Shri Hussain Imam: Sometimes structural defects may endanger the safety of passengers. For instance, the railings on the deck may be so low that passengers may fall into the water. Again, if the blades are not properly screened passengers may fall on them and get crushed. Similarly, if the engine room is not properly protected you may have accidents. The word "structural" does not imply any defect in size and shape but should be included for the same purpose on which the Law Minister insists, namely, that it is the safety of passengers that we look to. We must trust our authority to so interpret the statute as not to make it inoperative. I consider "structural" is very essential.

Shri Sidhva: My friend Mr. Santhanam said that though my wording did cover the intention still there is vagueness in it, and my Hon. friend Dr. Ambedkar has stated that what we aim at is the safety of passengers. I am also for safety, but he has mixed up shape with safety. My hon. friend. Mr. Hussain Imam has come out with the correct instances. I can tell Mr. Santhanam that some of these shipowners deliberately put the railings very low and as a result many accidents have occurred.

An hon. Member: Why put it "deliberately" low?

Shri Sidhva: Because it cuts down the costs. The deck Passengers Committee has made structures on this practice. There are many other structural points, for instance, use of bad wood in construction. Those who have experience in this field have spoken in favour of my suggestion. Unfortunately, my friend Dr. Ambedkar……..

Dr. Ambedkar: I have travelled very much……

(29)

SUPREME COURT ADVOCATES (PRACTICE IN HIGH COURTS) BILL

*** The Minister of Law (Dr. Ambedkar):** I beg to move :

> "That the Bill to authorise advocates of the Supreme Court to practise as of right in any High Court, be taken into consideration."

The Bill is a very simple Bill. The House will realise that we have now in India two different courts—the High Courts and the Supreme Court. The High Courts and the Supreme Court have independent jurisdictions in the matter of enrolling persons who as of right may practise before them. The High courts have their own rules for enrolment—of persons appearing in their courts. The Supreme Court has recently made its rules which are published in the Gazette according to which it is said that a person shall not be entitled to be enrolled as an advocate unless he possesses :

(1) (*a*) a degree in law of an Indian University, or

(*b*) is a member of the English Bar,

(2) has been for not less than ten years in the case of a senior advocate or seven years in the case of any other advocate, enrolled as an advocate in a High Court or a Judicial Commissioner's court in the territory of India.

We have, therefore, to-day two different sets of lawyers—one who are enrolled on the roll of the Supreme Court and another set who are enrolled on the roll of the High Courts. But the difficulty is this that those who are enrolled on the roll of the Supreme Court are not entitled to practise in the High Courts unless they are also enrolled on the various High Courts. It is felt that this causes a great deal of difficulty for clients. Let me illustrate the difficulty by a simple example. There is an appeal which comes, say for instance, from the

* P. D., Vol 10, Part II, 20th April 1951, pp. 7120-25.

Madras High Court to the Supreme Court. The client instead of employing a Madras advocate wishes to employ an advocate from U.P. which he is perfectly entitled to do provided of course that the U. P. counsel is enrolled in the Supreme Court. It may however, happen that the matter is not finally disposed of by the Supreme Court and the Supreme Court sends the case back to the original High Court from which it came up, for further evidence, or for the trial of some issues or for taking evidence or something like that. Now, the U. P. lawyer, who was originally engaged in the Supreme Court in the matter which came from Madras, while he can appear in the Supreme Court and conduct the case, argue the case and so on, he cannot be engaged when the case is remitted back to the High Court of Madras, as he is not an advocate of Madras, he is an advocate of U. P. Now this difficulty, it is felt, must be resolved, because it is in the interest of justice not merely in the interest of the client that a lawyer who has spent a large part of his time and energy in studying the case and understanding it should also be in a position to deal with it when it is remitted back to the original court.

Well, this difficulty could be solved in two different ways. One way to solve it would be to say that any particular lawyer who has been engaged in a particular case, when that case goes back, that particular lawyer would be entitled to appear in that case. The other is to have a general rule saying that all lawyers and advocates who have been enrolled by the Supreme court shall as of right be entitled to practise in any court. The original idea on which we were proceeding was the limited one. But subsequently on further consideration it was felt that it would be desirable to have a general rule permitting all advocates who are enrolled in the Supreme Court as of right to practise before any High Court, without any further procedure to be undergone. That is what this bill proposes to do. This as I said, is the general principle which the Bill embodies. To this principle, the Bill attaches two exceptions. One exception is this. A lawyer who is enrolled in the Supreme Court shall not automatically be entitled to practise in a High Court on the original side. He may practice on the appellate side without any further enrolment but not on the original

side. The second exception proposed to be made is with regard to a lawyer who was an ex-judge and has been enrolled, because before the Constitution came into existence there was no rule prohibiting judges, after retirement, from practice. They were free to practise and there are many cases where judges have been enrolled in the Supreme Court and are allowed to practise, but there are cases where persons, who, before the Constitution, were appointed to the High Courts and were required to give an undertaking that they would not practice in that particular High Court. Our exception says that if there is any advocate of the Supreme Court, who was an ex-judge of a High court and had given an undertaking not to practise in a particular High Court (which must be the High Court of his own province) then he shall not practise notwithstanding the provision contained in this Bill. These are the simple provisions of the Bill.

Shri C. Subramaniam (Madras)**:** What is the reason for the first exception?

Dr. Ambedkar: The reason is this. Under the Bar Councils Act a special provision exists. I believe there are only now three courts which have got original jurisdiction. All other High Courts are only appellate High Courts and they have no original jurisdiction but they have been invested with special powers to make rules for the enrolment of persons on the original side. As it is not proposed to amend the Bar Councils Act, it is felt desirable to keep that provision intact. That cannot cause much difficulty, because after all when the matter is remitted back by the Supreme Court to the High Court it will in all probability and in most cases be dealt with by the appellate side of the High Court.

Shri S. **N. Sinha** (Bihar)**:** Some of the High Courts have got original jurisdiction in cases like probate and company law. Even in these cases are you going to prohibit?

Dr. Ambedkar: Leave something for the local lawyers.

Mr. Chairman : Motion moved

> "That the Bill to authorise advocates of the Supreme Court to practise as of right in any High Court, be taken into consideration."

Shri Venkataraman (Madras)**:** This Bill in so far as it tries to unify the bar of this country is most welcome. Not only after the establishment of the Supreme Court but even earlier, immediately after the establishment of the Federal Court, the lawyers' conference held in Madras year after year suggested by passing resolutions that the Bar in India should be unified and there should be an All-India Bar Council and the enrolment of and disciplinary jurisdiction over all these Lawyers should be brought under one central control, namely, the All-India Bar Council. Though this bill does not go so far as that, it certainly makes a beginning in that it says that the advocates who are enrolled in the Supreme Court will be entitled to practice in the High Courts notwithstanding the fact that they have not been enrolled in such High Courts themselves. The Minister unfortunately stopped short of the very ideal which he set before himself. He said that it was his intention that the advocate who is enrolled as a member of the Supreme Court Bar should be enabled to go and appear in the province from which the case emanated even though he was not enrolled as an advocate of that court. If you merely substitute for the word "Madras" in the instance which the Hon. Minister gave by the word "Bombay" and then apply all the process step by step, which he took us through, you will find that the object, when he says is embodied in this Bill, is not carried out. I will repeat the instance myself.

Suppose a case emanates from Bombay and if chances that an advocate from Madras is engaged to appear before the Supreme Court on an appeal. It is possible for the Supreme Court to remit the case not only to the appellate side of the High Court but even send it back for a finding to the original side of that court. That advocate who studied and prepared the case and spent a lot of time over it—the client too must have spent a lot of money, as the Minister said, in briefing and instructing that particular advocate—would be prevented from appearing on the original side, just because the exception has been introduced in the Bill. Let me look at the rationale of the exception introduced...

Dr. Ambedkar: There is no iogic in it I confess.

Shri Venkataraman : He has aken the argument out of my mouth.

Dr. Ambedkar: I do not accept logic ; I accept expediency.

Shri Venkataraman : 'So I shall proceed on the basis that there is no logic.....

Mr. Chairman : May I ask the hon. Minister if a question of fundamental rights under article 22 is not involved in this?

Dr. Ambedkar: We have just now heard from several Judges that they are prepared to make classifications.

Shri Venkataraman : Article 22 of the Constitution gives the right to legal practitioners to appear in all courts. This Act will certainly be challenged by some enterprising lawyer some day and there is no doubt about it.

Apart from that I want to bring to the attention of the Hon. Minister that he will lose nothing by deleting part (a) of the proviso to clause 2. I understand that in Bombay also they have abolished the distinction between the advocates of the original side and the advocates of the appellate side.....

Dr. Ambedkar: They allow them to go from one side to the other after a certain period.

Shri Venkataraman: The practice which was hitherto prevailing of practitioners on the appellate side not being entitled to appear in cases on the original side has gone and today the preactitioners on the appellate side can still appear on the original side as in the Madras High Court. So far as the Madras high Court is concerned there is no distinction between a practitioner on the appellate side and a practitioner on the original side. An advocate of the Madras High Court can appear on both the appellate and original sides.....

Dr. Ambedkar: They go without shoes also.

Shri Venkataraman: There are customs and customs. I can see quite a few of people here which would be appalling to my countrymen.

We are not concerned with footwear here but with the legal rights of the practitioners. A practitioner of the Bombay High

Court is also placed on the same footing. The difference between the Bombay and Madras High Courts consists in this : whereas in the High Court of Madras there is no dual system, an advocate need not necessarily be instructed by an attorney or solicitor for appearing on the original side, in the appellate side they have got that system in which the practitioner on the original side must be instructed by a solicitor or an attorney. I can understand solicitors and attorneys insisting on their privileges being preserved for them. So far as their rights are concerned, let them be preserved. Let any practitioner appear but let him be instructed or briefed by an attorney or solicitor. If that is the object it can very well be preserved and achieved by deleting the words " to plead ". Any practitioner of the Supreme Court can be prevented from going before the High Court of Bombay or any other High Court on the original side. This Bill as stands with part (a) of the proviso will make it impossible for a practitioner of the Supreme Court to appear on the original side notwithstanding the fact that he had appeared in that particular case itself before the Supreme Court and the case had been remitted to the original side of that court.

An Hon. Member : Let him continue tomorrow. It is five o'clock.

The House then adjourned till a Quarter to Eleven of the Clock on Friday, the 20th April, 1951.

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* SUPREME COURT ADVOCATES (PRACTICE IN HIGH COURTS) BILL—*concld.*

Mr. Speaker: We will now proceed to legislative business, namely: The further consideration of the motion moved by Dr. Ambedkar yesterday:

> "That the Bill to authorise advocates of the Supreme Court to practise as of right in any High Court, be taken into consideration."

Shri Venkataraman (Madras)**:** Yesterday, I was submitting that this Bill is a welcome measure, but that the

* P. D., Vol. 10, Part II, 20th April 1951, pp. 7129-34.

proviso militates against the very object of the Bill. I was trying to show how……..

The Minister of Law (Dr. Ambedkar): To cut short the proceedings, I may say I am prepared to accept the amendment, subject of course, to other understandings.

Shri Venkataraman: I am very grateful to the hon. Law Minister for accepting the suggestion and so I whole-heartedly support the Bill without clause (a) in the proviso.

Pandit Thakur Das Bhargava (Punjab)**:** I rise to support the Bill……

……With regard to proviso (b) I have a point to submit. Proviso (b) is to the effect:

> "(b) to practise in a High Court of which he was at any time a Judge, if he had given an undertaking not to practise therein after ceasing to hold office as such Judge."

I submit that the prohibition to practise in the High Court by a man who is an ex-Judge of that High Court should not depend on any undertaking. Public policy requires that an ex-Judge of a high Court should not practise in that Court, but the proviso makes it conditional upon an undertaking having been given. There are many High Courts where no undertakings have been taken. Therefore, if ex-Judges are to be prohibited from practising in the particular Court, it should be independent of any undertaking given. There is an Article in the Constitution prohibiting all ex-Judges from practising in any Court—not merely in the Court where he was a Judge but in all other Courts. I submit proviso (b) militates against that. This proviso would allow an ex-Judge to practise in a High Court if he has not given an undertaking. The Constitution, however, says that all ex-Judges are prohibited from practising in any High Court.

Dr. Tek Chand (Punjab)**:** Judges appointed after the coming into force of the Constitution.

Dr. Ambedkar: Yes, that is the rule.

*** Mr. Chairman:** The question of amendments will come later. Perhaps it may be that after the Hon. the Law Minister has given his reply many of the doubts of the hon. members may be cleared up. Then we can think of the amendments.

Dr. Ambedkar: Most of the questions that have been raised in the course of speeches delivered by hon. Members have very little to do with the merits of the Bill. They deal with a subject which is more relevant to the unification of the Bar. As I said yesterday, this Bill primarily does not aim at the unification of the Bar. The aim of the Bill is a very limited one and is to remove the difficulties that are caused by enrolment of advocates by the High Court and by the Supreme Court in their independent jurisdiction. Clients have suffered on account of the fact that lawyers whom they engage in the Supreme Court are not permitted to appear in a High Court when the same matter is remitted by the Supreme Court to the High Court. That is the limited purpose of this Bill. But in view of the general desire that while achieving this limited purpose something might be done in the direction of unifying the Bar, I have accepted two proposals which really are outside the immediate object of the Bill.

One is to permit all lawyers who are enrolled in the Supreme Court to practise in all the high Courts which of course means right to practise in all courts subordinate to the -different High Courts.

The second point which I have accepted is to remove the restrictions originally placed in the Bill that the right to practise which is being given by this Bill to advocates enrolled on the Supreme Court shall be confined only to the appellate side. The clause is being deleted.

I have listened to the various speeches and all that I can say is that I realise the difficulties and I have a great deal of sympathy with the point of view that has been expressed by the various Members. When there is an opportunity and time the Government of India will no doubt consider this matter and bring forth a comprehensive measure which would

* P. D., Vol. 10, Part II, 20th April 1951, pp. 7140-42.

bring about the unification of the Bar in India which is a subject at the heart of many Members here. I will, therefore, not go into that aspect of the question.

Then there remains only one question which was raised by my friend Pandit Thakurdas Bhargava which also, I think, is quite outside the merits of the Bill. There is no doubt about it that anything that we do here in Parliament must always be subject to the provisions of the Constitution. If article 22 of the Constitution permits a legal practitioner to be engaged by an accused person to defend himself and if by the rules of enrolment enforced either by the High Court or by the Supreme Court a certain person does not become a legal practitioner within the meaning of the Constitution, in my mind there can be no doubt that the rules made by the High Court or by the Supreme Court would be at variance with the Article of the Constitution and the Constitution would prevail. At this moment all I would like to say is that I am not quite certain in my mind in what sense the term 'legal practitioner' is used in the Constitution. Whether it is used in the general popular sense that anybody who can go to a court of law and appear in any matter is a legal practitioner, or whether the Constitution uses the term in the technical sense that a legal practitioner means a person defined to be a legal practitioner either in the Legal Practitioners Act or in the rules made by the High Court or the Supreme Court, is a matter on which I do not propose to express any opinion. My friend Pandit Thakur Das will also realise that even the Legal Practitioners Act does not give the general right to practise to all those who are defined as legal practitioners. There are fields which are earmarked or rather which are limited to certain classes. For instance the pleaders and the *mukhtiars* are no doubt legal practitioners within the meaning of the Act, but as he knows they have no general right to practise, nor is their right to practise a permanent one. Their certificates are annual certificates and when these certificates are exhausted they cease to be legal practitioners. All these things to my mind are quite irrelevant for the purposes of the Bill and they will no doubt take care of themselves when the matter is raised before a court of law. I do not think there is any other thing that calls for any explanation.

Mr. Chairman : The question is:

> " That the bill to authorise advocates of the Supreme Court to practise as of right in any High Court be taken into consideration."

The motion was adopted.

Clause 2.—*(Right to practise in any High Court)*

Mr. Chairman: May I know whether the Hon Minister, is accepting any of the amendments?

Dr. Ambedkar: I am not accepting any amendment except No. 7 by Shri Ahmed Meeran to delete part (a) of the Proviso. But of course my friend will realise that some little redrafting will be necessary because if (a) goes (b) will have to be renumbered.

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* **Mr. Chairman :** I think the Hon. Minister wishes to reply so far as this part of the question is concerned.

Dr. Ambedkar: My hon. Friend has really explained the position and I do not think I have very much to add : but to make it simpler than he has done, the position is this. Article 220 of the Constitution applies to future Judges who have taken the position of High Court Judges after the commencement of the Constitution. Their going to practise either before the Supreme Court or before any Court, whether a High Court or subordinate court, cannot arise at all.

Dr. Tek Chand: In India.

Dr. Ambedkar: Yes, in India. Because, article 220 specifically says so. We are really dealing with the case of High Court Judges who were Judges before the Constitution came into existence. As my hon. friend pointed out, those Judges of the High Court before the commencement of the Constitution may be divided for the purpose of argument, into two classes: those who had given an undertaking that they will not practise in their Court and those who had not given an underaking. All that this proviso seeks to do is to bind down those High

* P. D., Vol. 10, Part II, 20th April 1951, pp. 7147-49.

Court Judges who had already given an undertaking. That is the simple position. Of course, it would be perfectly possible for this House to widen the scope of the proviso and to say that no High Court Judge even though he may not have given an undertaking should be permitted to practise; that is within the power of the legislature. But, the point is this. Those people accepted the positions on the definite understanding that they will be permitted to practise after their retirement and it would be wrong and unfair now for us to make a retrospective piece of legislation and say that even though they did not give an undertaking, they will still be bound down to this new rule, namely, that they shall not practise. That is why sub-clause (b) is so restricted and is made applicable only to those who have given an undertaking. Therefore, it creates no kind of injustice.

Shri Naziruddin Ahmed: May I point out that the proviso (b) is not confined to those Judges who were Judges before the Constitution ? The proviso says "to practise in a High Court of which he was at any time a Judge……..., and not before the Constitution.

Dr. Ambedkar: The point is, the other question does not arise because it has been dealt with categorically by the constitution.

Shri Naziruddin Ahmed: That if what I say.

Dr. Ambedkar: Why do you want to do something that the Constitution has done ? There is no question of undertaking as such. That matter has been finally settled by the Constitution both in the case of the Judges of the Supreme Court and in the case of the Judges of the High Courts. We are dealing with a pass which was uncovered by law and was regulated only by promises, conventions and undertakings.

Mr. Chairman : Would the Hon. Minister clarify one point more? Were those Judges who wanted to get their right of practice after the Constitution was passed, given an option to resign and cease to be Judges ?

Dr. Ambedkar: They knew the position and some of them, when the Constitution was on the anvil.—I know two or three

gentlement—resigned, because they would not accept that position. Everybody knows that.

Shri J. R. Kapoor: May I say for the information of the House that Judges were given the option to resign and there have been some cases of resignation. There was one in Allahabad. One of the Judges of the Allahabad High Court resigned merely because of this new article.

Mr. Chairman: There was one in Calcutta High Court also.

Dr. Ambedkar: For the information of the House. I might mention that every Judge of a High Court now who has retired has given an undertaking not to practise. There are only two gentlemen, fortunately they are alive, who have not given that undertaking (*An hon. Member:* One is here) The scope of what was called a trouble is so limited.

Mr. Chairman: Mr. Meeran may move the amendment.

Dr. Ambedkar: That has already been moved.

Shri Venkataraman: I only spoke on it in the general discussion.

Mr. Chairman : May I know whether hon. Members agree that this bill could be put through in five minutes?

Several Hon. Members: Yes.

Shri J. R. Kapoor: I would like to have a couple of minutes while clause 1 is taken up, because I have strong feelings on the subject.

Mr. Chairman: The House will stand adjourned to 2-35 P.M.

The House then adjourned for Lunch till thirty-five Minutes Past two of the Clock.

The House reassembled after lunch at Thirty Five Minutes passed two of the Clock.

(PANDIT THAKUR DAS BHARGAVA IN THE CHAIR).

***Mr. Chairman:** And so only two amendments have been moved. I shall now put them to vote.

Shri Meeran : And No. 7 may be put before No. 6.

Shri Kapoor: With your permission, and if the Law Minister agrees, may I suggest that the "explanation" may be deleted ?

Dr. Ambedkar: No, the explanation is necessary. I will explain why it is necessary later, when Mr. kapoor moves his amendment to another Bill.

Clause 2 as amended was added to the Bill.

****Mr. Chairman:** Does the hon. Minister want to reply ?

Dr. Ambedkar: A reply is unnecessary.

Mr. Chairman : The question is:

" That clause 1 stand part of the Bill. "

The motion was adopted.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Ambedkar: I beg to move:

" That the Bill, as amended, be passed."

The motion was adopted.

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*P.D. Vol. 10, Part-II, 20th April 1951, p. 7150

(30)

*CODE OF CIVIL PROCEDURE (AMENDMENT) BILL

The Minister of Law (Dr. Ambedkar): I beg to move for leave to introduce a Bill further to amend the Code of Civil Procedure, 1908.

Mr. Speaker: The question is:

> " That leave be granted to introduce a Bill further to amend the Code of Civil Procedure, 1908."

The motion was adopted.

Dr. Ambedkar: I introduce the Bill.

**CODES OF CIVIL AND CRIMINAL PROCEDURE (AMENDMENT) BILL

***The Minister of Law (Dr. Ambedkar):** I beg to move:

> "That the Bill further to amend the Code of Civil Procedure, 1903, and the Code of Criminal Procedure, 1898, be taken into consideration."

This Bill seeks to make a change in the jurisdiction of the subordinate judiciary. As the House knows the Constitution gives courts in India the right to declare whether any particular law made by the legislature, Central or provincial, is *intra* or *ultra vires* of that legislature. This power is now being exercised by all the subordinate judges and members of Parliament must have been aware that some very curious decisions have been given by various subordinate courts holding certain laws to be *ultra vires*. It is felt that it would not be right to leave this power of declaring whether the laws made by the State are *intra* or *ultra vires* to the subordinate judiciary.

First of all, without meaning any offence to members who are holding it, the subordinate judiciary cannot be said to be

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* P. D., Vol. 7, Part II, 18th December 1950, pp. 1834-35.

** P. D., Vol. 10, Part II, 20th April 1951, pp. 7153-76.

****Ibid.,* pp. 7153-54.

qualified to deal with problems involving *intra vires* or *ultra vires* of a law. Secondly, the Bar which appears generally before the subordinate courts cannot also be said to be competent to help the courts to come to a correct decision on such points. It is therefore felt that in the interest of uniformity of decision on questions of constitutional importance it is right that the power to declare any law *ultra vires* should be withdrawn from the subordinate judiciary. The Bill follows the procedure which exists in some of the States in the U.S.A., where also by law the subordinate judiciary is prevented from giving judgments on questions of constitutional importance.

Besides this there is nothing very special in this Bill. We propose to amend by this Bill section 113 of the Civil Procedure Code by the addition of a proviso whereby the subordinate judge is required, in case he is of opinion that any particular law is *ultra vires,* to refer the matter to the High Court and to await the decision of the High Court. It is also proposed to amend section 432 of the Criminal Procedure Code requiring a magistrate also to refer the case to the High Court if the magistrate thinks that the Act is *ultra vires.*

This is all there in this Bill, which I commend to the House.

Mr. Chairman : Motion moved :

> "That the Bill further to amend the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1898, be taken into consideration.."

***Dr. Tek Chand :** .....I submit that this Bill is based on very sound principles and that it should be passed without further discussion.

I have to say a word with regard to the observations made by my hon. friend Shri Shiv Charan Lal. He thinks that after the words "Act, Ordinance and regulation," which are already in the Bill, should be added the words "rules or orders", that is to say, when a question relating to the validity of a particular rule or particular order passed under an Act, Ordinance or regulation arises and this should also be referred to the High Court in the same manner as the Bill provides

* P. D., Vol. 10, Part II, 20th April 1951, pp. 7172-76.

for points relating to the validity of an Act, Ordinance or Regulation itself. With respect, I would say that it is not necessary nor desirable that every little case in which is involved the validity of an order passed by a Collector or some other officer to whom power has been delegated to frame a rule or pass an order, be sent to the High Court. This will unnecessarily swell the number of cases in which references are to be made to the High Court. What the bill proposes to take there are three cases of major importance : (i) Act of the Central Legislature or Act of one of the State Legislatures, and (ii) Ordinances which stand on the same footing as Acts of the legislature and (iii) Regulations. It is not every Regulation but only those passed in Bengal, Bombay and Madras, or Regulations as defined in the General Clauses Act of 1897. These are Regulations of old days, promulgated before legislatures had been established but which have been retained on the Statute Book and, therefore, they have the same force and are on the same footing as Acts and Ordinances; as for instance Regulation III of 1818. The Bill, therefore, applies to those cases only in which the validity of an Act of a Legislature is involved and not the validity of an order passed by a Collector or by a Secretary to Government or some other officer, acting under power delegated to him. These do not come within the purview of the Bill and rightly.

Sir, I think this is a salutary provision and the Bill should be passed as it is.

Dr. Ambedkar: May I be permitted to adopt the observations of my hon. friend Dr. Tek Chand in view of the fact that there is very little time and also because there is very little that I need say in addition to what he has already said here? We discussed these questions and he has now expressed what I would have expressed if I had the chance. I think that should suffice. If there is any point arising out of any amendment or things like that, then certainly I shall deal with them.

Mr. Speaker: The question is :

> "That the Bill further to amend the Code of Civil Procedure, 1908 and the code of Criminal Procedure, 1898, be taken into consideration."

The motion was adopted.

Clause 2.—*(Amendment of Act V of 1908.)*

Shri Shiv Charan Lal: I have an amendment to this clause which I shall move, in case the Hon. Law Minister is willing to accept it. Otherwise I will not move it.

Dr. Ambedkar: No, it is not the intention to accept it.

Shri K. Vaidya: Sir, Rule 2 of Order XLVI and Rule 5 of the same Order seem to be inconsistent and I would like to have some clarification of the position from the Hon. Law Minister. I am referring to my amendments Nos. 2 and 3 of List No. 3. Amendment No, 1 I am not moving. I had already raised this point before and I would like to hear what the Hon. Law Minister has to say.

Dr. Ambedkar: I am not prepared to accept the amendments proposed by my hon. friend because I do not think it is right and proper that all the proceedings in a case should be stayed.

Mr. Speaker: But Mr. Vaidya is not moving his amendment No. 1 asking for that.

Dr. Ambedkar: Yes, Sir, but the other amendments he refers to are consequential to his amendment No. 1. If that is not moved then there is no substance in the other amendments.

4-00 p M

Shri K. Vaidya : They are not consequential because…….

Mr. Speaker: Let him explain the position first.

Dr. Ambedkar: As I understand it, the position is this. It is suggested that when a reference is made by the subordinate court to the High Court, all further proceedings in the matter should stay. That is the fundamental point of the hon. Member. That Court should do nothing until the High Court returns the papers with its interpretation. With that position I entirely disagree for this reason that a case might involve one issue of a constitutional nature and many other issues which may have nothing to do with the Constitution. And I do not understand why a magistrate who is required under this Bill to make a reference to the High Court on one of the many points which are involved in the case should be

debarred from proceeding further with the other issues. Therefore I am not prepared to accept his first amendment whereby he wants :

That in part (i) of clause 2, in the proposed Proviso to section 113 of the Code of Civil Procedure, 1908, the words "and shall stay the further proceedings in the case" be added at the end.

The rest of them are purely consequential.

Shri K. Vaidya: They are not, I submit, consequential because Rule 2 of Order XLVI as well as Rule 5 of Order XLVI relate only to cases where judgments are given and in a case where an issue has been referred to the High Court there will be no judgment. Under Rule 4 of Order XX the issue should be decided and only then can there be a judgment, and Rule 2 of Order XLVI refers only to cases in which judgment is given. Rule 5 also refers to cases where judgment is given. Therefore these two rules are inconsistent or inapplicable to this Bill.

Dr. Ambedkar: I would point out that it is left to the discretion of the subordinate judge. He may make an order staying proceedings or he may not. My hon. friend wants that the discretion of the subordinate judge should be taken away and in all cases he should make an order staying the proceedings. Therefore I am not going to accept his amendment.

Mr. Speaker: Is the hon. Member keen on moving his amendment ?

Shri K. Vaidya: No, Sir.

Mr. Speaker: Then I shall put clause 2 to vote. The question is :

" That clause 2 stand part of the bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3.—*Substitution of new section : Amendment made:*

In clause 3 for the words "said Code" substitute the words and figures "Code of Criminal Procedure, 1898".

—[Dr. Ambedkar]

Shri Shiv Charan Lal: So far as the Civil procedure code is concerned, an Order has not got much importance. But so far as the Criminal Procedure Code is concerned, Orders have the same force as an Act. I may point out that under the Defence of India Act, so many orders were passed by the different state Governments and these orders had the force of law. So if you are placing the words "Act, Ordinance and Regulation", then the word " Order" also must be there, because in the Criminal Courts, these Orders have the force of law. I do not mean the ordinary Orders, but Orders like the Cotton Yarn and Cloth control Order, the Sugar Control Orders and other such orders which have the force of law. They are sometimes challenged in the courts whether those orders are valid or not. Simply putting the word "Act" before will not do.

The other amendment of mine is that in sub-clause 2 of section 432 along with presidency magistrate if the words 'sessions judge are added that will give a great scope for the Sessions Judge' also to refer the matter to the high court. If the Minister accepts the amendments I will move them, otherwise not.

Dr. Ambedkar: With regard to the first amendment to clause 3 introducing the words "or order" the position is that an order is generally issued under a law made by the legislature. If the contention of a party is that the law under which the order is issued is *ultra vires,* then obviously the matter will have to be referred by the judge to the High Court, if he is satisfied with the contention. But if the contention of the party is that the law is valid but the order is not, then it is the deliberate intention of this Bill that such a matter should be decided by the subordinate judge or magistrate, because we do not propose to overburden the High Court with all kinds of litigation which can be easily determined by the subordinate judge and it does not affect the generality of the public but the particular individual affected by that legislation.

With regard to the last amendment seeking to extend the privilege or the opportunity given to the presidency magistrate, to sessions judges, if he will refer, for instance, to sections 436,

437 and 438 of the Criminal Procedure Code there is ample power given both to the magistrate and the sessions judge to deal with cases of this sort to correct the error or refer the matter to the high court to get the error corrected. There is ample provision already.

Mr. Speaker: The question is:

"That clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The title and the Enacting formula were added to the Bill.

Dr. Ambedkar: I beg to move :

" That the Bill as amended be passed. "

Mr. Speaker: The question is :

" That the bill, as amended, be passed. "

The motion was adopted.

(31)

* CODE OF CIVIL PROCEDURE (SECOND AMENDMENT) BILL

The Minister of Law (Dr. Amedkar): I beg to move :

" That the bill further to amend the code of Civil Procedure, 1908, be taken into consideration. "

It is a very simple measure. Hon. Members will recall that after the partition of India certain difficulty has arisen in the matter of serving summonses and processes by courts in India to persons resident in Pakistan and issued by courts in Pakistan to persons resident in India.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

There are now two foreign territories and this matter has not been governed by any treaty so far. Consequently all processes had to be served through the post office which can never be depended upon as a sure method of communication. Recently an agreement has been made between India and Pakistan where both countries on a reciprocal basis have agreed that the processes issued by courts in one country may be sent to the courts in the other country and they will undertake to serve the summonses or the processes on the party resident there. The Bill seeks to give effect to this agreement. I might say that Pakistan has already given effect to this agreement and there is a law existing there. I hope the House will accept this Bill.

Mr. Chairman : Motion moved :

"That the bill further to amend the Code of Civil Procedure, 1908, be taken into consideration. "

Shri Sidhva (Madhya Pradesh) **:** This is a welcome measure. Many of the displaced persons who have come here and who have claims over persons in Pakistan are confronted

*P. D., Vol. 11, Part II, 20th April 1951, pp. 7176-78.

with the difficulty of not being able to recover the sums decreed on suits. I am glad that agreement has been arrived at between India and Pakistan and that Pakistan has also enacted a similar law. The question of serving a summons on the other side has been overcome. I want to enquire from the Minister in the event of a decree passed here against a person in Pakistan, is there any agreement arrived at by which they will see that it is executed and the amount is recovered and sent to the plaintiff in India. That is the main point involved in this question. Merely serving a summons will not do. The defendant may be indifferent and an ex-parte decree may be obtained. So long as there is no law regarding the execution of a decree why should the defendant spend money to engage a lawyer. Nothing is mentioned in that respect. I would like the Minister to enlighten us whether this question was considered in the discussion with Pakistan and if not, what will be the effect of the judgment of a court in India, which might pass a decree against a defendant in Pakistan? Without this provision the Bill will have no meaning.

Dr. Ambedkar: As a part of the comity of nations every country agrees to execute judgments given by courts in other countries. Of course different countries have different rules of procedure but there is no difficulty with regard to the enforcement of the judgments. Some evidence that the judgment is a true one may be required. Section 13 of the Civil Procedure Code regulates it.

Shri Naziruddin Ahmad (West Bengal)**:** A foreign judgment cannot be executed in any country at all. The Civil Procedure Code does not provide for it. A foreign judgment gives only a right of suit and a fresh suit has to be instituted and a fresh decree has to be obtained.

Dr. Ambedkar: That is only a matter of procedure.

Shri Naziruddin Ahmed: The whole thing has to be fought out again. The point I am raising is that a foreign decree cannot be executed.

Shri Sidhva: I want your guidance. I remember a case filed in India against a defendant in England. The decree was passed here but they could not execute it. A fresh suit had to be filed in London. I wonder whether without any such agreement a decree will have any value.

Dr. Ambedkar: Section 13 of the Civil Procedure Code does deal with the matter. There is no question about the enforcement of a foreign decree. The question is what procedure each country may adopt.

Shri Sidhva: That has no meaning.

Dr. Ambedkar: What has no meaning? It may say just as in the case of an award you will have to file an application when only it becomes enforceable. In the same way, section 13 of our Civil Procedure Code says :

> "A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except—
>
> (a) where it has not been pronounced by a Court of competent jurisdiction; ".

The question of jurisdiction is always fundamental. It can never be stopped. It must be proved that the court which has given the decree had the jurisdiction to make the decree.

Shri Sidhva: That is all right.

Dr. Ambedkar: What is all right? If you go to a subordinate court and get a decree beyond its jurisdiction nobody can execute it because it is not valid.

Mr. Chairman : The question is :

> "That the bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the enacting formula were added to the Bill.

Dr. Ambedkar: I beg to move:

> "That the Bill be passed."

Mr. Chairman: The question is:

> "That the Bill be passed."

The motion was adopted.

(32)

* JALLIANWALA BAGH NATIONAL MEMORIAL BILL

The Minister of Law (Dr. Ambedkar): I beg to move :

> "That the Bill to provide for the erection and management of a National memorial to perpetuate the memory of those killed or wounded on the 13th day of April, 1919 in Jallianwala Bagh, be taken into consideration."

The event which is known as Jallianwala Bagh is well-known to every Indian and I do not think it is necessary to say anything more about it. What is relevant for purposes of this Bill is that soon after the incident certain well-known Indians decided to prepetuate the memory of those who were killed and wounded on that particular day.

Dr. Tek Chand (Punjab)**:** The session of the Indian National Congress held at Amritsar under the presidency of Pandit Motilal Nehru decided it.

Dr. Ambedkar: Yes, and they collected an amount of money—some ten lakhs, I understand.

Dr. Tek Chand: Yes, ten lakhs.

Dr. Ambedkar: Out of that they purchased two or three pieces of land as are mentioned in the Schedule, which are being held as part of this trust. There is already a trust and trustees, but they are of informal character. It is now proposed to give this trust a statutory basis and the proposal is this, that the trustees will fall into three different classes : certain trustees who are to be life trustees, another set of trustees who are to be *ex officio* trustees, and three other persons who will be nominated by the Central Government. They will hold the land and the properties mentioned in the first part of the Schedule and the cash and movable property which according to my calculation comes to about Rs. 3,13,757-1-0. The object of the trust is to maintain this Memorial and to see that it is kept up and looked after properly.

* P. D., Vol. 10, Part II, 20th April 1951, pp. 7179-81.

There is only one point that requires to be considered and that is that the original trustee mentioned in the Bill, the late Sardar Vallabhbhai Patel is now no more, and the House has to consider a substitute for him. The rest of the Bill is just as it was proposed by the original trustees who were acting as trustees for these purposes.

Mr. Chairman: Motion moved:

> "That the Bill to provide for the erection and management of a National memorial to perpetuate the memory of those killed or wounded on the 13th day of April, 1919, in Jallianwala Bagh, be taken into consideration."

Shri Kamath (Madhya Pradesh)**:** It is in the fitness of things that a Bill of this nature has been brought before this House. It is over thirty years ago that this massacre at Jallianwala Bagh took place and hundreds of our countrymen and women were either killed...

Dr. Tek Chand : Two thousand—not hundreds.

Shri Kamath: Killed?

Dr. Tek Chand: Yes, two thousand killed.

Shri Kamath: .....thousands were either killed or wounded. The Congress, as the statement of objects and reasons shows, passed a resolution in 1919 proposing to acquire a piece of land and to build a memorial thereon to the martyrs of Jallianwala Bagh. We have not been told by the Law Minister who moved the Bill what amount exactly was collected for this purpose. He said "about ten lakhs", but he has not got the exact figure with him.....

Dr. Ambedkar: I said about ten lakhs—I can give the exact figure later.

Shri Kamath :.....and how much of that amount has been utilised in acquiring the site whereon the proposed memorial is to be erected. It is wholesome that Government, the first Government of Free India, should take note of a resolution passed by the Congress many years ago and try to give effect to it. But, Sir, alongside of this certain other questions also arise. As I have already said, the Bill seeks to perpetuate the

memory of the martyrs of Jallianwala Bagh and to implement the resolution of the Indian National Congress of December, 1919. That marked the beginning of the Gandhian era in our politics, and during that period the Congress raised, or has raised, several funds of different kinds. An important point, therefore in connection with this Bill which has been moved by the Law Minister is, how far the Government will take note of or take cognizance of other funds also raised by the Congress for a specific purpose.

Shri Bharati (Madras)**:** On a point of order, Sir, How far is that relevant to the Bill before us ? The hon. Member is referring to funds raised by the Congress for other purposes. Are we concerned with that in this Bill?

Shri Kamath: Of course, it is a resolution passed by the Congress that is the genesis of this Bill.

Mr. Chairman: There is no point of order. Let the hon. Member develop his argument.

***The Minister of Law (Dr. Ambedkar):** After the speeches which have been delivered by my hon. Friend Dr. Bakhshi Tek Chand, the Prime Minister and Pandit Thakur Das Bhargava, I do not think that there is any point left which requires any answer. They have dealt with all the questions that have been raised by the various speakers in the course of this debate, particularly with regard to representation of certain interests on this trust. I think they have been effectively answered and I have nothing more to add.

Mr. Chairman: The question is:

> " That the Bill to provide for the erection and management of a National Memorial to perpetuate the memory of those killed or wounded on the 13th day of April, 1919, in Jallianwala Bagh, be taken into consideration."

The motion was adopted

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* P. D., Vol. 10, Part II, 20th April 1951, pp. 7229-33.

Shri J. R. Kapoor (Uttar Pradesh)**:** (*English translation of the Hindi speech.*) I beg to move:

In caluse 2, for "National Memorial" substitute "Rashtriya Smarak".

My submission is that it is but in the fitness of things that the name of this National Memorial should be in the national language. We must give appropriate name to a thing and the name of the National Memorial which we are going to erect should be such as easily understandable to everybody in the country. By giving it a name in English, we shall be depriving a large number of people of easily understanding its importance. Therefore, I submit that it should be named Jallianwala Bagh Rashtriya Smarak. I hope and believe that the hon. Minister would agree to my humble request by accepting this amendment. I have nothing more to add in this connection.

Dr. Ambedkar: I am afraid I cannot accept this amendment.

Shri J. R. Kapoor: I do not want to press it. If the hon. Minister does not accept it, he may put this name within brackets as is also done with the name of our country Bharat which is also written within brackets.

Dr. Ambedkar: I am afraid, I cannot accept this.

Shri J. R. Kapoor: Then I do not press it.

Mr. Chairman: The question is.

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3.—(*Objects of the Trust*)

Shri Kamath (Madhya Pradesh)**:** I beg to move:

In part (c) of clause 3 for "raise and receive" substitute "raise, receive and administer".

The sub-clause, as it stand, reads thus:

" The objects of the Trust shall be—

...(c) to raise and receive funds for the purposes of the Memorial."

It stands to reason that the Trust shall be formed not only for the purpose of raising and receiving funds but also for the purpose of administering them. Otherwise the enumeration

of its duties and functions would be incomplete. I therefore move this amendment and commend it for the acceptance of the House.

Mr. Chairman: I wish to know whether any other amendment is going to be moved.

Shri J. R. Kapoor: I beg to move :

After part (c) of clause 3, insert new part:

" (d) to do any other thing in furtherance of the objects of the Trust ".

So that, there will be one more object added to it, not of any specific nature but merely of a general nature so that the trust may not feel handicapped at any time in regard to anything that it may like to do. I am sure this will be readily acceptable to the hon. Minister in charge of the Bill. Such a clause is almost invariably to be found in other similar enactments.

Mr. Chairman: The wording of the amendment is self-explanatory and I do not think any further speech on it is necessary.

Sardar B. S. Man: I beg to move:

After part (a) of clause 3, insert new part and reletter subsequent parts accordingly:

"(b) to start educational, social or such other public institutions, or to create funds or scholarships for the benefit of the public generally, or for those or their dependants, who were killed or wounded on the 13th day of April 1919 at the site, or for such other people who served, died or were permanently disabled in the national cause. "

The objects of the Trust as given in the Bill are merely, "to erect and maintain suitable buildings, structures and parks at or near the site of the Jallianwala Bagh in the city of Amritsar ..... etc." I feel that by the acceptance of this amendment it will be enlarging to scope and making it more a living memoral to the memory of those who have departed.

Mr. Chairman: May I know whether any of the amendments are acceptable to the Hon. Minister?

Dr. Ambedkar: I do not think I can accept any of them. Perhaps a word might be necessary as to why I do not accept them.

With regard to Mr. Kamath's amendment the addition of the word "administer" is unnecessary. Every trust carries with it the power of the trustees to administer whatever they receive and raise.

With regard to Mr. Kapoor's amendment " to do any other thing in furtherance of the objects of the Trust", that again is unnecessary. When the objects are stated it carries with it the implied power to do anything in furtherance of these objects.

With regard to Sardar Man's amendment, I think it is agreed that this body of trustees should not convert themselves into a social service league. Their purpose should merely be to maintain this national monument.

Shri Kamath: May I not ask whether the word "receive" also is unnecessary ? Whatever is raised must be received by the Trust. Therefore "received" may be deleted.

Dr. Ambedkar: That may be so, but I think "administer" is quite superfluous.

Mr. Chairman: I would like to know whether hon. Members are pressing their amendments.

Sardar B. S. Man: I am not pressing my amendment.

Shri J. R. Kapoor: No.

Shri Kamath: Well, it may go.

Mr. Chairman: Does he want it to be put or not put?

Shri Kamath: It need not be put.

Mr. Chairman: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4.—(*Trustees etc.*)

Shri Sidhva (Madhya Pradesh)**:** I have an amendment.

Mr. Chairman: Is Dr. Ambedkar going to move any amendment ?

Dr. Ambedkar: Mr. Sidhva is moving.

Shri Sidhva: I beg to move:

In part (b) of sub-clause (1) of clause 4, for the name of Sardar Vallabhbhai Patel substitute the name of Dr. Saifuddin Kitchlew.

It is self-explanatory and I do not want to speak on it.

Mr. Chairman : Amendment moved:

In part (b) of sub-clause (1) of clause 4, for the name of Sardar Vallabhbhai Patel substitute the name of Dr. Saifuddin Kitchlew.

Is it acceptable to the Hon. Minister.

Dr. Ambedkar: I accept the amendment.

***Giani G. S. Musafir:** *(English translation of Urdu speech)* I wanted to move:

After part (e) of sub-clause (1) of clause (4) insert new part and reletter subsequent parts accordingly:

"(f) the president of the Punjab State Congress."

I have already said more than enough on that subject. Unfortunately for me the Prime Minister does not agree with me on this point. What is still more unfortunate is that he has already delivered his speech so that even those members who had promised to support me have become silent. Therefore, I feel it would be no use pressing it any more. Hence, I am not moving it. I do not agree, however, that the inclusion of the President of the Punjab Congress would turn this Trust into a party Trust.

Mr. Chairman: May I know whether the hon. Minister accepts any of those amendments?

Dr. Ambedkar : I cannot accept any of these amendments.

Shri Kamath: I want to press all the amendments.

Mr. Chairman: I will put all these amendments to the House.

Shri Kamath: One by one.

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* P. D., Vol. 11, Part II, 21st April 1951, p. 7237.

Mr. Chairman : The question is:

In part (b) of sub-clause (1) of clause 4, for the name of Sardar Vallabhbhai Patel substitute the name of Kumari Maniben Patel.

The motion was negatived.

*** Dr. Ambedkar:** The only amendment that I can accept is No. 79 seeking to omit the word "for" in part (f) of sub-clause (2).

Mr. Chairman: Does Mr. Kamath press the other amendments?

Shri Kamath: I press amendment No. 82 relating to penalty.

Mr. Chairman: The question is:

(i) In part (f) of sub-clause (2) of clause 9, for " injury " substitute "damage".

The motion was negatived.

Shri Kamath: I do not press my second amendment.

Mr. Chairman : The question is:

(iii) In part (f) of sub-clause (2) of clause 9 omit " for ".

The motion was adopted.

Mr. Chairman : The question is:

(iv) In sub-clause (3) of clause 9, for " fine which may extend to one hundred rupees " substitute :

> " imprisonment for a period not exceeding six months or with fine which may extend to one hundred rupees or both. "

The motion was negatived.

Mr. Chairman: The question is:

" That clause 9. as amended, stand part of the Bill."

The motion was adopted.

Clause 9. as amended, was added to the Bill.

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* P. D., Vol. 11, Part II, 21st April 1951, pp. 7241-42.

Clause 10 was added to the Bill.

The Schedule was added to the Bill.

Clause 1. *(Short Title)*

Amendment moved:

In clause 1, for " 1950 " substitute " 1951". *[Dr. Ambedkar]*

Mr. Chairman : The question is:

"That clause 1. as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill. .

The Title and the Enacting formula were added to the Bill.

Dr. Ambedkar : I beg to move:

That the Bill, as amended be passed. "

Mr. Chairman : The question is:

" That the Bill, as amended, be passed. "

The motion was adopted.

The House then adjourned for Lunch till Three of the Clock.

(33)

The House re-assembled after Lunch at Three of the Clock.
[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

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*CONSTITUTION (FIRST AMENDMENT) BILL

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): I beg to move.

> "That the Bill to amend the Constitution of India be referred to a Select Committee consisting of Prof. K. T. Shah, Sardar Hukam Singh, Pandit Hirday Nath Kunzru, Dr. Syama Prasad Mookerjee, Shri Naziruddin Ahmad, Shri C. Rajagopalachari, Shri L. Krishnaswami Bharati, Shri Awadheshwar Prasad Sinha, Shri T. R. Deogirikar, Dr. B. R. Ambedkar, Shri V. S. Sarwate, Shri Mohanlal Gautam, Shri R. K. Sidhva,- Shri Khandubhai K. Desai, Shri K. Hanumanthaiya, Shri Raj Bahadur, Shrimati G. Durgabai, Shri Manilal Chaturbhai Shah, Shri Dev Kanta Borooah, Shri Satya Narayan Sinha and the Mover with instructions to report on Monday the 21st May, 1951."

This Bill is not a very complicated one ; nor is it a big one. Nevertheless, I need hardly point out that it is of intrinsic and great importance. Anything dealing with the Constitution and change of it is of importance. Anything dealing with Fundamental Rights in corporated in the Constitution is of even greater importance. Therefore, in bringing this Bill forward, I do so and the government does so in no spirit of light-heartedness, in no haste, but after the most careful thought and scrutiny, given to this problem.

I might inform the House that we have been thinking about this matter for several months consulting people, State Governments, Ministers of Provincial Governments, consulting, when occassion offered itself, a number of Members of this House, referring it to various Committees and the like and taking such advice from competent legal quarters as we could obtain, so that we have proceed with as great care as we could

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* P. D., Vol. 12, Part II, 16th May 1951, pp. 8814-15.

possibly give to it. We have brought it forward now after that care, in the best form that we could give it, because we thought that the amendments mentioned in this Bill are not only necessary, but desirable, and because we thought that if these changes are not made, perhaps not only would great difficulties arise, as they have arisen in the past few months, but perhaps some of the main purposes of the very Constitution may be defeated or delayed. In a sense this matter of course, has been mentioned rather vaguely and has been before the public for some time. But in the precise form that it has been raised in this Bill, it came up only when I introduced this Bill in the House a few days ago.

* **Pandit Kunzru** (Uttar Pradesh)**:** The Bill before us seems to be very simple, but it is nonetheless of a very far reaching character. It affects not merely the Constitution but also the spirit in which the Constitution is to be dealt with. A measure of such importance requires careful consideration and I think that we ought, all, to welcome the scrutiny to which it has been subjected by previous speakers. In order to justify the important changes that are sought to be made in the Constitution, Government should have taken care to supply us with full information on every point to tell us exactly why each particular amendment was needed. The Prime Minister spoke at considerable length but dealt, generally speaking with principles. When he dealt with specific matters he was very tantalizing; he did not throw much light on the reasons for the specific measure that the Government have placed before us. In view of this some other Member of the Government should have given us fuller information than the Prime Minister gave. Perhaps my hon. friend. Dr. Ambedkar would have been the fittest person to explain to us in detail the provisions of the Bill, particularly those which relate to the amendment of article 19 and the insertion of two new articles 31A and 31B. I have no doubt that he will take part in the debate. He will probably get up in the end in order to have the last word on the subject.

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* P. D., Vol. 12, Part II, 17th May 1951, p. 8896.

The Minister of Law (Dr. Ambedkar): No, no.

Pandit Kunzru: That may suit him and the Government of which he is an important member, but it is most unfair to the House that it should be called upon ……..

Shri Sidhva (Madhya Pradesh)**:** What is the unfairness ?

Pandit Kunzru: If Mr. Sidhva will have a little patience he will realise that every Member is not as enlightened as he is and that most of them require a little more instruction than he has ever done or ever will do …….

***The Minister of Law (Dr. Ambedkar):** In the course of the debate yesterday, my friend Pandit Hirday Nath Kunzru said that Government had done great injustice to the House by not explaining the necessity and the purposes of the various clauses in this Bill and that some one on the side of Government—and he referred particularly to me—should have got up to discharge that duty to the House. I do not know that any Member of the House will believe that a person of the intelligence of my hon. friend Pandit Hirday Nath Kunzru is one who requires an explanation of this Bill. My friend Dr. Syama Prasad Mookerjee evidently did not require any explanation of the Bill. As soon as the Prime Minister finished, he stood up and opened his fire. And I do not think that my friend Pandit Kunzru is less intelligent than my friend Dr. Mookerjee. However, as Pandit Kunzru expressed the wish of many Members of this House, I thought it incumbent on my part to intervene in this debate and to clarify the position so as to dispel the two arguments which had been used in the course of the debate, that there was no necessity for the amendment of the Constitution, and secondly, that Government could wait and give the country and the public larger and longer time and should not rush through this measure. In the observations that I propose to make, I will take the Bill clause by clause and try to explain the necessity for making the changes which the Bill proposes to make.

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* P. D., Vol. 12, Part II, 18th May 1951, pp. 9004-32.

I will begin with clause 2 of the Bill. Clause 2 of the Bill proposes to amend article 15. The necessity for the amendment of article 15 has arisen on account of the judgments recently-delivered by the Supreme Court in two cases which came up before them from the Madras State. One case was Madras *vs.* Shrimati Champakam Dorairajan and the other was Venkatraman *vs.* the State of Madras. In the case of Venkataraman the article involved was article 16, clause (4) and in the case of Shrimati Champakam the article involved was article 29, clause (2). In the one case the question involved was the reservation for backward classes in public services and in the other case, the question involved was the reservation for backward classes in educational institutions. The question turned upon what is known in the Madras Presidency and elsewhere as the Communal G.O. The argument on which the Communal G.O. of the Madras Government was declared to be void and invalid was this. It was said by the Supreme Court that article 29, clause (2), did not have a saving clause like clause (4) attached to article 16. As the House will remember under clause (4) of article 16, a special provision is made that article 16 shall not stand in the way of the Government making a suitable provision for the representation of backward classes in the services. Such a provision of course is not to be found in article 29. With regard to article 16, clause (4), the Supreme Court came to the conclusion that it involved discrimination on the ground of caste and therefore it was invalid. I have carefully studied both these judgments of the Supreme Court and with all respect to the judges of the Supreme court I cannot help saying that I find this judgment to be utterly unsatisfactory.

Shri Naziruddin Ahmad (West Bengal)**:** Sir, on a point of order. Is it in order for any Member to express disrespect to the highest judiciary in the land ? It is the custom in Parliament not to speak disparagingly about the courts.

Dr. Ambedkar : There is no disparagement of the learned Judges at all.

Mr. Speaker: I myself felt that the word should not have been used but I think what the Hon. Law Minister meant

was that judgment was unsatisfactory from the point of view of what the Government proposed to do.

Dr. Ambedkar: The judgment does not appear to be in consonance with the articles of the Constitution. That is my point.

Mr. Speaker: I am afraid the Hon. Minister will not be in order to pass any such structures on any judgment expressed by the Supreme Court.

Dr. Ambedkar: I am very sorry.

Mr. Speaker: I was thinking whether what he expressed was not capable of a different interpretation *viz.* that the judgment was unsatisfactory from the point of view of what the Government proposed to do.

The Minister of Home Affairs (Shri Rajagopalachari):

Will the hon. Speaker forgive my intervention ? I think really what the Hon. Law Minister meant is that a doubt has arisen on account of the judgment.

Mr. Speaker: Let us now proceed.

Dr. Ambedkar: My view is that in article 29, clause (2), the most important word is 'only'. No distinction shall be made on the ground only of race, religion or sex. The word 'only' is very important. It does not exclude any distinction being made on grounds other than those mentioned in this article and I respectfully submit that the word 'only' did not receive the same consideration which it ought to have received.

Then with regard to article 16, clause (4), my submission is this that it is really impossible to make any reservation which would not result in excluding somebody who has a caste. I think it has to be borne in mind and it is one of the fundamental principles which I believe is stated in Mulla's last edition on the very first page that there is no Hindu who has not a caste. Every Hindu has a caste—he is either a Brahmin or a Mahratta or a Kunby or a Kumbhar or a carpenter. There is no Hindu—that is the fundamental proposition—who has not a caste. Consequently, if you make a reservation in favour of what are called backward classes

which are nothing else but a collection of certain castes, those who are excluded are persons who belong to certain castes. Therefore, in the circumstances of this country, it is impossible to avoid reservation without excluding some people who have got a caste. On these points I do not think personally that the judgment is a very satisfactory judgment. In this connection I would like to state, notwithstanding what the House and some Members are saying, that I have often in the course of my practice told the presiding judge in very emphatic terms that I am bound to obey his judgment but I am not bound to respect it. That is the liberty which every lawyer enjoys in telling the judge that his judgment is wrong and I am not prepared to give up that liberty. I have always told the judges before whom I practised that that is my view of the matter. Now the point has to be borne in mind that in article 46 of the Directive Principles an obligation has been laid upon the Government to do everything possible in order to promote the welfare and the interest of what are called the weaker sections of the public by which I understand to mean the backward classes or such other classes who are for the moment not able to stand on their legs—the scheduled castes and the scheduled tribes. It is therefore incumbent not merely on the Government but upon this Parliament to do everything in its hands to see that article 46 is fulfilled and if that fulfilment is to come, I cannot see how one can escape an amendment so as to prevent article 29, clause (2), and article 16, clause (4) being interpreted in the way in which it has been interpreted and being made to block the advancement of the people who are spoken of as the weaker class. That is the necessity for amending article 15.

I now come to the provisions of article 19, an article which gave rise to great excitement among the Members of the House. I first propose to take clause (3) (1) (a) of the Bill which amends the original clause (2) of article 19. As Members will see this sub-clause proposes to add three heads:

1. Relations with foreign States,
2. Public Order,
3. Incitement to offence.

A question was asked as to what was the necessity for introducing three new heads. The necessity has arisen out of certain judgments which have been delivered by the Supreme Court as well as by the Provincial High Courts. I would like to refer in this connection to the judgments of the Supreme Court in Ramesh Thapar's case and in Brij Bhushan's case. These are the two judgments of the Supreme Court. Then I come to the judgments of the State High Courts.

The following judgments of the Punjab High Court may be taken into consideration:

1. Master Tara Singh's case.
2. Amarnath Bali *versus* the State of Punjab.

There are two judgments of the Patna and Madras High Courts :

1. Shilabala Devi *versus* the Chief Secretary of Bihar.
2. Bynes *versus* the State of Madras.

In Ramesh Thapper's case what was involved was the validity of the Madras Maintenance of Public Order, 1949. Brij Bhushan's case involved the validity of the East Punjab Public Safety Act, 1949. Master Tara Singh's case involved the validity of sections 124A and 153 A of the Indian Penal Code. Amarnath Bali's case involved the validity of section 4 of the Indian Press (Emergency Powers) Act of 1931. Shilabala Devi's case also involved the validity of section 4 of the Press Act and the same was involved in the case of Bynes *versus* Madras State.

All these cases have resulted in the decision that they are void laws, that is to say, in view of the provisions contained in clause (2) of article 19, the courts have held that all these Acts, however valid they might have been before the Constitution came into existence, are bad laws now, because they are inconsistent with the Fundamental Rights.

What I want to ask the House to consider is, what is the effect of these decisions of the Supreme Court and the various High Courts in the States ? In order to give the House a very clear idea I can read many of the sections of the Acts which have been declared to be null and void but in view of the

shortness of time I would content myself by reference to the Press Act, section 4, which has been called in question. This is what section 4 of the Press Act says:

> "Whenever it appears to the Provincial Government that any Printing Press, in respect of which any security has been ordered to be deposited under section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which"—I want the House to mark these clauses carefully—
>
> "(*a*) incite to or encourage, or tend to incite to or to encourage, the commission of any offence of murder or any cognisable offence involving violence, or
>
> (*b*) directly or indirectly express approval or admiration of any such offence or of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence.
>
> or which tend directly or indirectly.
>
> (*c*) to seduce any officer, soldier, etc.....

The important point to which I wish to draw the attention of the House is (a) "incite to or encourage, or tend to incite to or encourage, the commission of any offence of murder or any cognisable offence involving violence." It means that under the decisions of the Provincial High Courts to which I had referred it is now open to anybody to incite, encourage, tend to incite or encourage the commission of any offence of murder or any cognisable offence involving violence.

The one question that I would like the House to consider. is this. Is it a satisfactory position that any person should now be free to incite or encourage the commission of offences of murder or any cognisable offence involving violence ? I want the House to consider the matter dispassionately. Is it a desirable state of affairs (*Several Hon. Members :* No. no.) that our Constitution should leave us in this desperate position that we could not control the right of free speech which has been granted by clause (1) of article 19 and it should be so unlimited that any person should be free to preach murder or the commission of any cognisable offence. I have tried to put the matter in a nutshell. That is the position.

The same thing has now occurred with regard to the public safety laws or the laws made by the various States for the

maintenance of public order, because they also have been held by the Supreme Court to be not open to any limitation by virtue of the Constitution. The Supreme Court has made a distinction between the security of the State and the maintenance of public order. They say that it may be open for Parliament to make a law for the security of the State but it is not open to parliament to make a law for the maintenance of public order. There again I wish the House to consider the matter seriously. Is the House prepared to allow the right of freedom of speech and expression to be so untrammelled, to be so unfettered, that any man can say anything and go scot-free, although such speech creates public disorder ? If the judgments of the Supreme Court and the High Courts stand as they are, then the only consequence that follows is that we shall never be able to make a law, which would restrict the freedom of speech in the interests of public order and that we shall never be able to make a law which would put a restraint upon incitement to violence. I want my friend Dr. Mookerjee who—as coming events cast their shadow—played the part of a leader of the Opposition, whose business undoubtedly, from a party point of view is to oppose every thing to consider whether the void created in our legislation by the decisions of the Supreme Court and the Provincial High Courts should be allowed to remain in the name of freedom of speech. That is the simple question. I am sure in my mind that if my friend Dr. Mookerjee were to study the different decisions of the Supreme court and the Provincial High courts in the light of the observations I have made he will beyond question come to the conclusion that this is a situation which must be remedied and cannot be allowed to go on.

Pandit Thakur Das Bhargava (Punjab)**:** He wants detention laws to be used for the purpose.

Dr. Ambedkar: Detention laws are something quite different. That is in a nutshell (*Shri Kamath:* What a poor nutt!) the case for amending article 19 of the Constitution.

It is next important to consider why the Supreme Court and the various State High Courts have come to this conclusion. Why is it that they say that Parliament has no right *to* make a law in the interests of public order or in the interests of preventing incitement to offences ? That is a very very important question and it is a question about which I am personally considerably disturbed. For this purpose I must refer briefly to the rules of construction which have been adopted by the Supreme Court as well as by the various State High Courts, but before I go to that I would like to refer very briefly to the rules of construction which have been adopted by the Supreme Court of the United States—and I think it is very relevant because the House will remember that if there is any Constitution in the world of a country of any importance which contains Fundamental Rights it is the Constitution of the United States, and those of us who were entrusted with the task of framing our own Constitution had incessantly to refer to the Constitution of the United States in framing our own Fundamental Rights. There are many Members I know, who are familiar with the Constitution of the United States. How does the Constitution of the United States read ? I think hon. Members will realise that apparently there is one difference between the Constitution of India and the Constitution of the United States so far as the Fundamental Rights are concerned. The Fundamental Rights in the Constitution of the United States are stated in an absolute form; the Constitution does not lay down any limitation on the Fundamental Rights set out in the Constitution. Our Constitution, on the other hand, not only lays down the Fundamental Rights but it also enumerates the limitations on the Fundamental Rights, and yet what is the result ? It is an important question to consider. The result is this, that the Fundamental Rights in the United States, although in the text of the Constitution they appear as absolute, so far as judicial interpretations are concerned they are riddled with limitations of one sort or another. Nobody can in the United States claim that his Fundamental Rights are absolute and that the Congress has no power to limit them or to regulate them. In our country I find that

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we are in the midst of a paradox; we have Fundamental Rights, we have limitations imposed upon them, and yet the Supreme Court and the High Courts say. "You shall not have any further limitations upon the Fundamental Rights."

Now comes the question ; how does this result come to be ? And here I come to the canons of interpretation which have been adopted in the United States and by the Supreme Court and High Courts in our country. As hon. Members who are familiar with the growth of the Constitution of the United States will know, although the Constitution of the United States is a bundle of bare bones, the United States Supreme Court has clothed it with flesh and muscle so that it has got the firmness of body and agillity which a human being requires. How has this happened ? This has happened because the U.S. Supreme Court, although it was the first Court in the world which was called upon to reconcile the Fundamental Rights of the citizen with the interests of the State, after a great deal of pioneering work came upon two fixed principles of the Constitution. One is that every State possesses what is called in the United States "police power", a doctrine which means that the State has a right to protect itself whether the Constitution gives such a right expressly or not. The "police power" is an inherent thing just as our Courts have inherent powers, in certain circumstances, to do justice. It is as a result of this doctrine of "police power" that the United. States Supreme Court has been able to evolve certain limitations upon the Fundamental Rights of the United States citizens. The second doctrine which the United States Supreme Court developed and which it applied for purposes of interpreting the Constitution is known as the doctrine of "implied powers". According to the decisions of the Supreme Court if any particular authority has been given a certain power, then it must be presumed that it has got other powers to fulfil that power and if those powers are not given expressly then the Supreme Court of the United States is prepared to presume that they are implied in the Constitution.

Now, what is the attitude which the Supreme Court has taken in this country in interpreting our Constitution ? The

Supreme Court has said that they will not recognise the doctrine of the "police power" which is prevalent in the United States. I do not wish to take the time of the House in reading the judgments of the Supreme Court, but those who are interested in it may find this matter dealt with in the case known as Chiranjit Lal Chowdhuri *versus* the Union of India otherwise known as the Sholapur Mills case. You find the judgment of Mr. Justice Mukherjee expressly rejecting this doctrine which in the text of the judgment which I have, occurs on page 15. They say they will not apply this doctrine. The reason why the Judges of the Supreme Court do not propose to adopt the doctrine of "police power" is this, so far as I am able to understand, that the Constitution has enumerated specifically the heads in clause (2) under which Parliament can lay restrictions on the Fundamental Right as to the freedom of speech and expression and that as Parliament has expressly laid down the heads under which these limitations should exist, they themselves now will not add to any of the heads which are mentioned in clause (2). That is in sum and substance, the construction that you will find in the case of Thaper's judgment which was delivered by Mr. Justice Patanjali Sastri. He has said that they will not enlarge it and therefore as the Constitution itself does not authorise Parliament to make a law for purposes of public order "according to them Parliament has no capacity to do it and they will not invest Parliament with any such authority. In the case on the Press Emergency Laws also they have said the same thing—that *in* clause (2) there is no head permitting Parliament to make any limitations in the interests of preventing incitement to an offence. Since section 4 of the Press (Emergency Powers) Act provides for punishment for incitement to the commitment of any offence, Parliament has no authority to do it. That is the general line of argument which the Supreme Court Judges have adopted in interpreting the Constitution.

With regard to the doctrine of implied powers, they have also more or less taken the same view. Personally myself, I take the view that there is ample scope for recognising the

doctrine of implied powers, and I think our Directive Principles are nothing else than a series of provisions which contain implicitly in them the doctrine of implied powers. I find that these Directive Principles are made a matter of fun both by judges and by lawyers appearing before them. Article 37 of the Directive Principles has been made a butt of ridicule. Article 37 says that these Directives are not justiciable that no one would be entitled to file a suit against the Government for the purpose of what we call specific performance. I admit that is so. But I respectfully submit that that is not the way of disposing of the Directive Principles. What are the Directive Principles ? The Directive Principles are nothing but obligations imposed by the Constitution upon the various Governments in this country—that they shall do certain things, although it says that if they faill to do them, no one will have the right to call for specific performance. But the fact that there are obligations of the Government, I think, stands unimpeached. My submission is this; that if these are the obligations of the State, how can the State discharge these obligations unless it undertakes legislation to give effect to them ? And if the statement of obligations necessitates the imposition and enactment of laws, it is obvious that all these fundamental principles of Directive Policy imply that the State with regard to the matters mentioned in these Directive Principles has the implied power to make a law. Therefore, my contention is this, that so far as the doctrine of implied powers is concerned, there is ample authority in the Constitution itself to permit Parliament to make registration, although it will not be specifically covered by the provisions contained in the Part on Fundamental Rights.

Dr. S. P. Mookerjee (West Bengal)**:** Even though they may become inconsistent with the provisions of the Constitution ?

Dr. Ambedkar: That is a different matter.

Shri Kamath: That is a vital matter.

Dr. Ambedkar: What I am saying is this that the various provisos attached to the various fundamental articles need

not be interpreted as though they were matters of strait-jacket as if nothing else is permissible.

Shri Kamath: You yourself made it.

Dr. Ambedkar: The point that I was trying to make to the House is that on account of the declaration by the Supreme Court that this Parliament has no capacity to make a law in certain heads, the question before the House is this : can we allow the situation to remain as it is, as created by the judgments, or we must endow Parliament with the authority to make a law ?

At this stage I do want to make a distinction and I do so for the special reason that Dr. Mookerjee came and said that we were taking away the freedom which people enjoyed. I think it is necessary to make a distinction between the capacity to make a law and the enactment of a particular law. All these matters as to whether a particular law encroaches upon the freedom of the people is a matter which can be discussed when the law is being made. Today we are not dealing with a law ; we are only dealing with the capacity of Parliament to make a law.

[SHRIMATI DURGABAI *in the chair*]

Dr. S. P. Mookerjee : May I ask one question with regard to this point that you are only asking Parliament to endow you with power to make a law ? But according to the changes which have been proposed, all the laws which were invalidated will become valid retrospectively.

Dr. Ambedkar: I know that is a point on which my friend Pandit Bhargava laid great stress and it would be very wrong on my part to leave it unexplained.

Dr. S. P. Mookerjee : And the much-hated emergency laws will become good laws.

Dr. Ambedkar: It is not quite so.

Shri Kamath: Almost;

Dr. Ambedkar: So far I have dealt with two heads, namely, public order and the incitement to an offence. There

remains the third category, namely friendly relations. We have at present on our statute book a law enacted in 1932 dealing with friendly relations with the foreign States. It is true that that law has not come for any adjudication before High Courts or the Supreme Court and it has so far not been declared to be *ultra vires*. But the fact remains that in view of rules of interpretation adopted by the Supreme court that nothing is within the capacity of Parliament unless that particular head of legislation is mentioned in clause (2) and as "friendly relations with foreign States" is not mentioned in clause (2) I do not think it requires an astrologer to predict that when that question comes before the judiciary they will follow the same line of interpretation.

Shri Kamath: Dr. Ambedkar is quite enough for the purpose.

Dr. Ambedkar: And it is for that reason that we have thought it necessary to include in the new heads this head of friendly relations with foreign states.

My friend Dr. Mookerjee asked whether there was any country where such a law prevailed. Well, I have searched for a precedent and I can tell him that I find no country which has not such a law. In the case of England it is a rule of Common law. No statutory law is necessary. The Common Law is operative not only in England but in all the Dominions. Therefore that same rule prevails there. In fact, the common Law rule has been amended and made more stringent by a statutory provision in Canada.

Pandit Kunzru (Uttar Pradesh)**:** Will my hon. Friend explain a little more the position in England ?

Dr. Ambedkar: Yes, I will. I do not know—I must leave some time for the Prime Minister.

Hon. Members: Take your own time.

Dr. Ambedkar: There is some confusion. I think, in the minds of the people.....

Dr. S. P. Mookerjee: And the framers of the Bill.

Dr. Ambedkar: No, I do not think so. You will presently see that we have no such confusion. At any rate my mind is very clear about it.

Shri Kamath: Government as a whole, not you.

Dr. Ambedkar: What does maintenance of friendly relations imply ? Most Members are under the impression that if this category was added they would not be in a position to criticise the foreign policy of the Government. I like to say that that is a complete misunderstanding and a misconception.

Shri Kamath: That is your opinion.

Dr. Ambedkar: The underlying principle of this category, namely maintenance of friendly relations with a State, is nothing more than an extension of the principle of libel and defamation, that you shall do nothing, you shall say nothing, you shall circulate no rumour which will involve a foreign State in any kind of ignominy. Beyond that there is nothing in this category. Even the English Common Law is based upon this, namely that it is a part of the law of defamation—that you shall not defame a foreign State which has a friendly relation with this country. Now, I want to know from Dr. Syama Prasad Mookerjee whether he thinks that even asking him or others that they shall not defame a friendly nation is such a serious inroad upon the liberty of speech that it should be condemned.

Dr. S. P. Mookerjee: Why not specify it ?

Dr. Ambedkar: It is understood that this is so. I know my friend is a great reader, but if he were to read the debates that took place in this Assembly in 1932 when this law was enacted, if he will read the Statement of Objects and Reasons—which I have read—and also the Report of the Select Committee on that Bill he will find that in this particular law there is nothing more than what I have stated.

Shri Kamath: Is not the expression "running dog" used by the Peking Government libellous or slanderous ?

Dr. Ambedkar: There the Peking Government ought to make a law.

Shri Kamath: If someone retaliates here ?

Dr. Ambedkar: This policy of tit for tat is not good for the State.

Shri Kamath: What about reciprocity ?

Dr. Ambedkar: It may involve us in great deal of trouble. If we are responsible to our friendly neighbours that our citizens shall not defame them, in the same way the Chinese Government is responsible that the Chinese citizens shall not defame India and the remedy must be left for each Government to adopt in accordance with its own executive authority.

Prof. Ranga (Madras)**:** And sense of honour.

Dr. Ambedkar: Yes, and sense of honour.

Shri Naziruddin Ahmad: But the present law of defamation will protect foreign States also.

Dr. Ambedkar: My friend has provoked me to do something more which I did not want to do ! Now, let me read to him—this is very important—the law in the United States. Incidentally I would like to remind my friend Dr. Syama Parasad Mookerjee who so vehemently asked 'Is there any country which has such a law ?', well, I point to the United States of America. I have got this big volume with me *Foreign Relations and Intercourse.*

Shri Frank Anthony (Madhya Pradesh)**:** Is it part of the Bill of Rights.

Dr. Ambedkar: It says—this is an important point—"Notwithstanding the fact that the United States does not permit the Congress to make a law on this particular subject, the Supreme Court on the basis that every State has a police power to protect itself has permitted such a legislation to be on the statute book."

Shri R. K. Chaudhuri (Assam)**:** But not on the Constitution.

Dr. Ambedkar: "What is the law ?"—my hon. friend Mr. Naziruddin who asked the question may read it. It goes much beyond our Indian law. The first clause says that "anybody wilfully and knowingly making any untrue statement, either

orally or in writing, about any person shall be punished by imprisonment for not more than ten years and may, in the discretion of the court, be fined not more than five thousand dollars". I want him to compare the punishing clause of our law with the punishing clause of this law.

Shri Naziruddin Ahmad: I raised a different question.

Dr. Ambedkar: Let me read it again.

Mr. Chairman: Order, order ; I do not think that too many interruptions help the debate.

Dr. Ambedkar: I do not mind replying if I can understand what they ask.

Shri Naziruddin Ahmad: I raised a different question altogether. My question was whether our law of defamation does not protect foreign States also.

Dr. Ambedkar: It does not.

Shri Naziruddin Ahmad: I think it does.

Dr. Ambedkar: No, it applies only when one person defames another. That is the point. Then the second clause in that law is about "wrongful assumption of character of a diplomatic or consuler officer". That also is made punishable under the law relating to foreign relations. One more important clause is about "conspiracy to injure property of a foreign Government". There again the punishment is imprisonment of not more than three years or fine of not more than five thousand dollars or both. Therefore, our law is a very mild one.

Shri Kamath : If all untrue statements are tabooed it will put an end to all diplomacy.

Dr. Ambedkar : We are talking of citizens doing harm to the Government of the foreign State.

Shri Kamath: Not Government-to-Government.

Dr. Ambedkar: With the explanation that I have given so far, Members of the House, I think will agree that there is a necessity for amending article 19 in the way in which sub-clause (1) of clause 3 of the Bill makes provision for it.

Some Hon. Members: No.

Dr. S. P. Mookerjee: If it is only for protection against defamation, why are you having it separately ?

Dr. Ambedkar: Sometimes it is better to separate a certain category.

Shri Kamath: Expediency.

Dr. S. P. Mookerjee: Which is the Constitution in the rest of the world where such a separate provision is made ? You contradicted me.

Dr. Ambedkar: The whole point is that the British Constitution is an unwritten Constitution and therefore nothing is necessary; Parliament is supreme.

Dr. S. P. Mookerjee: What about the American Constitution ?

Dr. Ambedkar: There are no Fundamental Rights in the United Kingdom. That is the difficulty.

Dr. S. P. Mookerjee: In any written constitution does a similar provision exist ?

Dr. Ambedkar: It does not, but in the United States of America according to the canons of interpretation adopted by the Supreme Court such a law is possible.

Dr. S. P. Mookerjee: That is a different matter.

Dr. Ambedkar: It is not different at all.

Now I come to clause 3, sub-clause (1)(*b*). This clause seeks to amend clause (6) of article 19 which deals with trade, profession, etc.

Shri Deshbandhu Gupta (Delhi)**:** Before the Hon. Minister goes to clause 3(1)(*b*), may I ask him one question ? The words are "defamation or incitement to an offence" and all laws existing today will become…….

Dr. Ambedkar: I have not come to that.

Shri Deshbandhu Gupta: I want you to answer that.

Dr. Ambedkar : I will not answer it now. I will answer it at my own time. I have noted it and I think it is a question to which some answer should be given. There is no ground for running away from it. It may be that the House may not accept my explanation, but that I have no explanation to offer is not the presumption that should be made.

With regard to this clause it will be noticed that the latter part of clause (6) has been separated into two parts, one dealing with the qualifications for practising any profession, and the second part dealing with the actual carrying on of any trade etc. The important part of that second part lies in this that it permits the State to make a different classification between private members carrying on the trade and the State carrying on the same trade. This clause and the necessity for its introduction has arisen on account of the judgment of the Allahabad High Court reported in 1951 A.I.R. (Allahabad) 257, Full Bench, known as Motilal *versus* the Government of Uttar Pradesh. As hon. Members will remember, U.P. Government have introduced a scheme of nationalisation of motor transport. They were proceeding with their scheme piecemeal, territory by territory; certain territory they had said would be subject to their monopoly and that no private individual would be entitled to run their buses within that territory; certain territory which they thought in the beginning they could not cope with they left to private bus owners. In doing so, they said that it would not be necessary for the State to obtain a licence for the running of their buses within the territory that they had ear-marked for themselves, but required the private owners to obtain licences from the State. This question was raised before the Allahabad High Court on the ground that they involved discrimination. It seems to me that if nationalisation is a desirable thing and in the best interests of the country, then it must also be admitted that it may not be possible for the State to undertake nationalisation all throughout the country at one and the same time. It involves administrative problems ; it involves many other problems and consequently, in order to fully carry out the scheme and to consolidate it, it may be necessary for the State to define a territory and to leave others to carry

on for the time being. Such a process should not be hampered by the doctrine of non-discrimination. It is to get rid of this doctrine of non-discrimination in the matter of nationalisation that this particular amendment has been introduced and I do not think that the House will very seriously object to this kind of doing.

An Hon. Member: The same thing from the High Court.

Dr. Ambedkar: Now I come to clause 3, sub-clause (2) about which.....

Dr. S. P. Mookerjee: Why have you omitted the word 'reasonable' from the existing clause ?

Dr. Ambedkar: The word 'reasonable' was not there. That is a matter which may be discussed. (*An Hon. Member* ; In the Select Committee.) In the House, everywhere.

Now I come to clause 3, sub-clause (2). In order to understand what this amendment precisely does, I think it is necessary to go back to article 13. It is only in the light of article 13 that one can have a clear idea of this particular sub-clause 31. As hon. Members know, article 13 declares that if any law is inconsistent with the Fundamental Rights, that law shall be declared to be void and inoperative. As I have shown in the course of my observations, certain provisions of laws, such as sections 153A and 124A of the Indian Penal Code, certain provisions of the Press (Emergency Powers) Act and the Public Safety Acts have now been declared to be void by the Supreme Court and by the various High Courts. In view of this, what are we to do ? It seems to me that there are three alternatives which we could pursue. The first alternative is to refuse to amend the constitution and to let the void provision remain as it is. I do not think that any Member of this House would like this alternative. (*An Hon. Member* : It would be disastrous). The second alternative is to amend the Constitution, and then under this, there are two courses open. The first course open to us is *to* re-enact this law in consonance with the amended article. That is one way. Parliament and the various State Legislatures should call in their sessions and tackle with these laws once

again. The second course is to revive these laws and to say that the revival of these laws shall be subject to the provisions contained in the amended Constitution. I cannot see what else one can do. The Bill adopts the second course. The Bill says: let the laws which have been declared by the Supreme Court and the High Courts to be null and void be deemed to be alive, but subject to one proviso, and that proviso is that they shall not be alive in their original body and flesh but they shall be alive only in such degree and in such manner as may be consistent with the amended article 19. That is the position. Now, I would like to ask the House whether they will seriously contemplate the posibility of either this Parliament or the various Legislative Assemblies in the Provinces to again sit and re-enact these laws.

Dr. S. P. Mookerjee: Why not **?**

Dr. Ambedkar: Is there time for it ?

Dr. S. P. Mookerjee: What is happening ?

Dr. Ambedkar: I do not know what time it might take. But I am sure about that if my hon. friend Dr. Mookerjee were to be a member of the Bengal Legislative Assembly, he will prevent such a law being passed there for at least six months. His argument, his eloquence, all that would stand as a formidable Chinese Wall against any re-enactment of these laws. Therefore, it seems to me not to be a very unnatural presumption that in the present circumstances in which this Parliament is situated or the local Legislative Assemblies are situated, you cannot presume that there would be immediately the time available for the re-enactment of these laws. I cannot think of it myself. We have so much legislation here.

Shri Sarangdhar Das: Why not the new Parliament ?

Dr. Ambedkar: If it is the new parliament, it means that for six, seven or eight months on a year, there will be no law for public order; there will be no law for incitement to an offence and no law for friendly relations with foreign States. If Members of Parliament can contemplate such a contingency, they are welcome to it.

Ch. Ranbir Singh (Punjab)**:** The new Parliament can repeal these laws if they so want.

Dr. Ambedkar: I have dealt with article 19.

Dr. S. P. Mookerjee: Why are you *giving* retrospective effect ?

Dr. Ambedkar : Unless you give retrospective effect, these laws cannot be revived.

Shri Shiv Charan Lal (Uttar Pradesh)**:** Is that legal ?

Dr. Ambedkar: Why not ? If these laws are to be in operation, they must be in operation *on* the date when this law comes into existence. You can give it a new beginning if you can re-enact; but I do not see how you can re-enact.

Shri Deshbandhu Gupta: Because the Hon. Law Minister is going to another article, may I ask a question with regard to this article ? The power sought to be conferred refers to incitement to an offence. Section 4 of the Press (Emergency Powers) Act, to which the Hon. Law Minister has referred, involves incitement to murder or to an offence involving violence. I want to know.

Dr. Ambedkar: Do you want to advocate it ?

Shri Deshbandhu Gupta: No. I want to know whether under the wide powers that are sought to be taken, it is not possible to advocate even non-violent disobedience to any order which may be against the liberties of the people, and which will constitute an offence under other enactments. I want an explanation. For instance, section 144 prevents the holding of a meeting for unlawful purposes. Some district magistrate issue an order. A newspaper, tomorrow, advises the people that this order is absolutely obnoxious and it may be disobeyed. Will it or will it not constitute an offence although it is neither an incitement to violence nor incitment to murder ?

Shri Rajagopalchari: May I submit that such extensively detailed discussion may be reserved for the Select Committee. The principles have been explained. Otherwise, we will have no time.

Shri Deshbandhu Gupta: If the Hon. Minister gives an assurance that it will be modified, it is enough.

Mr. Chairman: Whatever it may be, the hon. Members who are frequently interrupting, I think, have had their say already, and their points of view have been taken note of. Now, let the Hon. Law Minister, who is now speaking have his say.

Shri Kamath: Does it mean that those who have not had their say can interrupt?

Mr. Chairman: No ; that does not mean that. Most hon. -Members will do well to take note of this.

Shri Shiv Charan Lal: Only one question. Will it be legal to give retrospective effect ?

Dr. Ambedkar: Oh yes ; undoubtedly.

Pandit Thakur Das Bhargava: May I ask one direct question ? Is the Hon. Law Minister satisfied with the terms of article 19(2) as he seeks to amend it ?

Dr. Ambedkar: I have explained the principle. If as I said, the language requires to be modified to give effect to the principle, there can be no objection. But, the principle is that they shall be revived.

Shri Deshbandhu Gupta: The Hon. Minister has not thrown any light on the removal of the word 'reasonable'.

Dr. Ambedkar: It is not removed; it was not there.

Pandit Thakur Das Bhargava: But the other things were there. You have taken away all those safeguards.

Dr. Ambedkar: That is a different matter. That will be considered by the Select Committee.

Now, I come to clause 4 of the Bill. This clause introduces a new article 31A. Let us understand, first of all, what this article does. What this article does is to permit a State to acquire what are called estates. Secondly, it says that when any legislation is undertaken to acquire estates, nothing in the Fundamental Rights shall effect such a legislation. The merits

of this article, I think have to be judged in the light of one question, and it is this. Is there anything revolutionary in this article ?

Shri Frank Anthony: It is reactionary.

Dr. Ambedkar: Is there anything in this article which is not to be found in article 31 ? It is from this point of view that I want the House to consider this question. The House would remember that later clauses of article 31 provided that certain laws which were then on the anvil and had not been passed, shall not be questioned on the ground of compensation if a certificate was issued by the President. That is the gist of those clauses of article 31. The new amendment to article 31 not only removes the operation of the provision relating to compensation, but also removes the operation of the article relating to discrimination. In this amendment, I am emphasising the word 'estate'. The new article is a very limited one. It does not apply to the acquisition of land. It applies to the acquisition of estate in land which is a very different thing. What is an estate has been defined in this particular article namely, the right of a proprietor, sub-proprietor, tenure-holder, or other intermediary. Of course, the terminology is different in different provinces. It does not refer to the acquisition of land. That is a point to be borne in mind. Therefore, all that article 31 A does is this. When any law is undertaken with regard to the acquisition of property, two questions can properly arise. One is the amount of compensation ; the second is discrimination as between the various proprietors as regards the amount of compensation. These are the only two questions that can possibly arise and give rise to litigation. With regard to one part of it, dealing with compensation, we have already excluded the acquisition of proprietory and zamindari interests by the original article 31. By this article, we are excluding the operation of the discriminatory provision. That is all what we are doing by this article.

It seems to me that we really cannot adopt the said two articles of the Fundamental Rights relating to compensation and discrimination with regard to this land question. I have

paid considerable attention to this subject. I may say that I have studied with great care the situation in Ireland, a country which resembles very closely our own. In Ireland, the peasantry is hungering for land. Land in Ireland has been unevenly distributed. Some have very large estates ; some have very small. There are many who are landless. What has the Irish Constitution done ? I want the Members who are representing the landed interests to consider this case in a comparative manner. Now, so far as the Irish constitution is concerned, property in land particularly is not a Fundamental Right. Article 43 of the Irish Constitution clause (2), states that the exercise of the right mentioned, that is the right on land, should be regulated by the principles of social justice. It does not say that land shall not be taken except on the basis of full compensation or without any discrimination as between landlords. What the Irish law does is this. They have appointed what is called the "Congested Board", as they call it, or congested Areas board. It is a separate organisation created by law and this Board has been *given* the power to acquire land, to break up holdings, to equalise land, to make uneconomic holdings economic ones by taking land from a neighbouring owner and the right of assigning compensation has been given to this Board of congested areas. There is no judicial authority to interpret the action of this board.

An hon. Member: And no appeal?

Dr. Ambedkar: And no appeal at all. Some people have of course, taken appeals to the courts, but the courts have held that no appeals lie with any court.

Now, I can, speaking for myself, say without any hesitation that I am not at all an admirer of the new schemes that have been drafted by these States who have acquired land. It is, in my judgment, not a very good thing to create peasant proprietors in this country. Our difficulty in this country has arisen by reason of the fact that we have small landlords holding half an acre of land or an acre or two acres, with no money, no measure, no bulls, no bullocks, no implements, no seeds and no arrangement for water. And yet they are the landlords and the holders of the land. Looking at the future,

I feel very aghast as to what is going to happen to this country and its national production of food, if this kind of agricultural system continues. I would have very much liked if the State had acquired all these properties and kept the land as State land and given it on permanent tenancy to cultivators so that the State would have had the right to create collective farming and co-operative farming on the basis of supplying the materials and so on and so forth. But now we have a large 'number of landless labourers in this country, and I think their number will exceed even five crores. But when you make these laws, making the tiller of the soil the owner of it, what provision can you make for the welfare of these landless labourers ? They will remain where they are—high and dry—notwithstanding the abolition of the *zamindars*. I am, therefore, not very happy at what is being done. But that is a different question altogether. The question we are considering now is whether the intermediaries should be allowed to continue. That is the point, and on the point, I think there can be no dispute that the intermediaries should be liquidated, without any kind of interference from the Fundamental Rights either on the ground that there is no adequate compensation or that a discrimination has been made. I have got with me a very interesting paper which I secured from the Government of West Bengal. Hon Members will remember that there was a Commission called the Floud Commission, appointed for the purpose of liquidating the *zamindars* in Bengal. After that Commission had reported, the Government of Bengal appointed a special officer in order to find out how effect could be given to the recommendations of the Floud Commission and that officer has made a very interesting report. I have got a copy, but as I said, I have not got the time now to go through the whole of it. But that officer himself recommended that equality of compensation would be wrong. It would be neither just nor equitable, though it may be administratively smooth. He has worked out a scheme of compensation which is very interesting, and the scheme is one of graded compensation. In the case of profits up to Rs. 2,000 the compensation should be fifteen times the net profit. From Rs. 2,000 up to Rs. 5,000 it should be twelve times but not less than the maximum

amount given under the previous item. From Rs. 5,000 up to Rs. 10,000, the compensation should be ten times but not less than the maximum under the Rs. 2,000—Rs. 5,000 category and for profits above Rs. 10,000 it should be eight times but not less than the maximum under the last-mentioned category. It is all a graded thing. And I am afraid that we should not get mixed up with this question of compensation which is a very ticklish problem. If you want the betterment of agriculture, I am convinced that these intermediaries must be liquidated. The original article exempted compensation for the acquisition of *zamindari* rights. We are now dealing with exemption from discrimination. I do not see why article 31 should now continue to operate, when there is a law for the purpose of acquiring these estates.

Shri Shiv Charan Lal: What about article 14 about discrimination ?

Dr. Ambedkar: The whole chapter is excluded from operation.

Shrimati Renuka Ray (West Bengal)**:** When the Hon. Minister is prepared to go far, why does he not go further ?

Dr. Ambedkar: I am not revolutionary enough.

Shrimati Renuka Ray: But you yourself suggested that the State should acquire the land?

Dr. Ambedkar: Yes, but I am a progressive radical.

Now, I come to article 31 B. This article enumerates in the Ninth Schedule certain laws which have been passed. Great objection has been taken that this is a very unusual procedure. *Prima facie,* it is an unusual procedure. But let us look at it from another point of view. What are these laws ? What are the principles on which these laws are made which are being saved by the Ninth Schedule. All the laws that have been saved by this Schedule are laws which fall under article 31A. That is to say, they are laws which are intended to acquire estates. And when we say by article 31A that whenever a law is made for the acquisition of an estate, neither the principle of compensation nor the principle of

discrimination shall stand in the way of the validity of it. I admit that sentimentally there may be objection. But from the practical point of view. I do not understand why we should not declare them valid pieces of legislation.

Shri Naziruddin Ahmad : They are bad laws and so they have to be declared valid!

Shri Syamnandan Sahaya (Bihar)**:** May I enquire whether these laws that are now sought to be validated will cover, only land reforms or whether there will be interference with other laws like the Transfer of Property Act and other Act ? Has this aspect of the matter been investigated by the Government?

Dr. Ambedkar: I shall be quite frank about it. The only other method to adopt would be to give power to the President to revise these laws and to reconstruct them and to bring them strictly in conformity with the provisions of article 31.

11-00 AM

Pandit Thakur Das Bhargava: Under article 31 we decided that if President certifies certain laws, they will be valid. Now that safeguard has been taken away.

Dr. Ambedkar: The reason why that has not been done is this. Just imagine the amount of burden that would be cast upon myself, on the Law Ministry, the Food and Agriculture Ministry and other Ministeries involved if we were to sit here and examine every section of each one of these Acts to find out whether they deviate. I think that is impossible.

Shri Kamath: Appoint a Committee for the purpose

Dr. Ambedkar : That will mean postponement of this Bill.

Now I come to clause 6 which seeks to amend article 85. In article 85 the word used is 'summon'. This word has given rise to some difficulty. The word ' summon' has a technical meaning, *viz.* sitting of Parliament after a prorogation or dissolution. It does not cover the case of the sitting of Parliament after adjournment. The result is that although Parliament may sit for the whole year adjourning from time

to time, it is still capable of being said that Parliament has been summoned only once and not twice. There must be prorogation in order that there may be a new session. It is felt that this difficulty should be removed and consequently the first part of it has been deleted. The provision that whenever there is a prorogation of Parliament, the new session shall be called within six months is retained. That is the difference between the old article and the new, *viz.,* the summoning has been dispensed with. Parliament may be summoned once and it may continue to *go* on after short adjournments from time to time.

Another difficulty with regard to clause (2) is—it was contended by some that according to the letter of this article it is necessary that both Houses should be prorogued simultaneously and not at different times. That certainly was not the intention of the Constitution. The Constitution intended that one House may be summoned at one time, another may be summoned at another time, one may be prorogued at one time and another may be prorogued at another time. It is to make this possible that clause (2) has been amended.

With regard to article 87, which is sought to be amended by clause 7, the position is this. Under the old article the provision was that whenever Parliament was summoned, there was to be an address by President. Now as Parliament will be summoned only once and it will continue either by prorogation or by adjournment, it is not necessary to retain this provision. Similarly .....

Shri Kamath: How can it continue after prorogation ?

Dr. Ambedkar: If it is prorogued, then it will be summoned. If there are two summonings, the address by President will be only once. With regard to precedence for debate, that also has been deleted—not that there will be no time given but for the simple reason that there may be some urgent business which may require to be disposed of earlier .....

Shri Syamnandan Sahaya: Supposing the President wants to address the House, this will be a limitation imposed on him.

Dr. Ambedkar: Now I come to articles 341 and 342. As the House knows, to-day the power of issuing scheduled castes and the scheduled tribes order so far as part A and Part B States are concerned is given only to the President while the power to issue such orders with regard to Part C States is given to Parliament. That position is now being altered and the power is given to President even to make an order with regard to scheduled castes and scheduled tribes in respect of Part C States also.

Then article 372 invests the President with the power to make adaptation in existing laws in order to bring them in conformity with the provisions of the Constitution and that power is given only for two years. This House will remember on account of the pressure of other business it has not been possible for Government to examine all the existing laws in order to find out how many of them are inconsistent with the provisions of the Constitution. It is therefore felt that the President's power to make such adaptation in the existing laws in order to bring them in conformity with the Constitution be extended by one more year so that means may be adopted in order to find out which laws are inconsistent and a consolidated order may be issued thereafter.

Shri Kamath: The article also provides that once Parliament is elected under the new Constitution, the President shall not exercise this power.

Dr. Ambedkar: If this article gives the power, then that of course overrides.

Shri Kamath : How can that be ?

Dr. Ambedkar: Then I come to article 376, clause 13. A good deal of objection was taken to this particular clause. It deals with the appointment of persons who are not citizens of India to the posts of Chief Justice and Judge of any High Court. The position is this. Article 217, clause (2) says that a Judge of the High Court must be a citizen of India. Article 376 provides that existing Judges including Judges who were not citizens on the date when the Constitution came into operation shall continue as Judges if they so choose. Now it

so happens that we have in our country some four High Court Judges who were on the date of the Constitution, Judges of Certain High Courts but were not citizens of India. They chose to remain at their posts and did not retire. We were therefore bound to carry them over under the provisions of article 376. A question has arisen and it is this. Can such a person be appointed as a Chief Justice either in the Court in which he is serving or in some other Court ? Another question that has arisen is this. Can such a Judge be transferred to another High Court, the point being whether the appointment of a Chief Justice or the transfer of a Judge from one High Court to another High court is a new appointment ? If it is a new appointment, obviously the provisions of article 217(2) would apply. This was felt as a great difficulty, because it could not be presumed that parliament intended merely to continue them but their prospects should be blocked. Such evidently was not the intention. Consequently the President under the powers vested in him under article 392, clause (1) for the purpose of removing difficulties, issued an order regularising the position. That order in some quarters has been questioned as being outside the power of the President, there being no defficulty whatsoever. In order to remove these doubts it is thought better to make a provision in the Constitution itself and that is why clause 13 is included in this Bill.

Mr. Chairman: Will the Hon. Minister explain why was not originally the transfer contemplated ? Is it not a new situation created by this clause ?

Dr. Ambedkar: That is what I interpret to be the intention of article 376 *viz.,* that once they were carried over, they were carried over for all purposes, either transfer or promotion.

But some people have found this difficulty ……

Pandit Thakur Das Bhargava: The idea was that the Chief Justice shall not be a non-national. What is the reason now ?

Dr. Ambedkar: The reason is obvious. When you accept a man as a Judge you certainly accept him for your own convenience and you should be in a position to transfer him to some other court. For the benefit of and in fairness to that individual he should not be debarred from promotion.

Pandit Thakur Das Bhargava: Would you like the Prime Minister of India to be a non-national ?

Dr. Ambedkar ; We are dealing with these four exceptional cases. (*Interruption*). The provision is very clear and I do not think anybody can quarrel with it.

I believe I have exhausted all the points raised in the course of the debate. If anything remains I shall be prepared to deal with it when the Bill is taken up clause by clause.

CONSTITUTION (1ST AMENDMENT) BILL 1951

***Shri Jawaharlal Nehru:** ..... Now, it has become a convention—I cannot immediately say whether it is anything more and whether it is in the Constitution itself— that anything coming under the concurrent list of legislation, any law passed by a State Assembly, has to come up here for examination and for the President's approval. Is that so ?

An hon. Member : Not until this House has passed a law.

The Minister of Law (Dr. Ambedkar): If it is inconsistant.

An hon. Member: Not until this House passes a law.

Shri Jawaharlal Nehru: What I mean was, if there is obvious repugnance then, of course, it does not come into effect. That is obvious. But in order to examine that there is no repugnance, in order to see that it is what the legislative lists contemplate, it comes up here of the President's assent. Therefore, in effect .....

Shri Bharati (Madras)**:** Not necessarily,

Shri Jawaharlal Nehru: I do not say it is necessary, in the sense that the law does not take effect. But I am told that it is practically automatic and anyhow it has been in practice automatic. And such laws have to come up here, every one of them, for they come up daily, first of all to the Home Ministry to examine and to the Law Ministry also to examine and it comes before the President to see whether he expresses his approval or not. So it can be taken for granted that, especially in a matter of this kind it must inevitably come. I go beyond that and if the House wishes I am perfectly willing to add that clause about the President's assent to article 19. It is for the House to decide.

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* P. D., Vol 12, Part II, 31st May 1951, p. 9610.

***Dr. S. P. Mookherjee :** ……. Before I take my seat, I once again request the Prime Minister to consider the main purpose of my two amendments with regard to the substitution of the word 'Parliament' in the place of 'State' or if that is not possible, at least to provide that the laws passed by the States in this behalf will be subject to the President's assent. If that is done, it will, to a great extent, remove the difficulties which stand in our way.

The Minister of Law (Dr. Ambedkar): My only excuse for intervening in this debate is to clear certain points which relate to the constitutional provisions which are necessarily involved in the amendments which have been tabled. In the first place, I propose to deal with the two amendments together : the first amendment is that Parliament should have the exclusive power to make laws under the provisions which are now being introduced in the proposed clause (2) of article 19 and the second is that, if that is not possible, the President should have the power to give his assent to any law made under this new proposed clause and unless that assent was given, that law should not be deemed to be valid.

With regard to the question of bringing in Parliament, there are two aspects to the matter which, I think, it is desirable to consider carefully. One is this: Is it possible to give exclusive power to Parliament to make a law in a field which is covered by the new clause (2) ? On this matter, I should like to invite the attention of the House to article 368 which deals with the amendment of the Constitution. That article specifies certain classes of amendments to the articles "of the Constitution which would require the ratification of the States before the amendments could be deemed to have been validly passed. I do not propose to go over all the different categories that have been set out in article *368*. I content myself by reference to only one and I refer to Chapter I of Part XL Article 368 says that if any article which forms part of Chapter I of Part XI is amended, then such an amendment will require the ratification of the State. It will be noticed that article 246 clause (3) falls in Chapter I of Part XI. That article says that

* P. D., Vol 12, Part II, 1st June 1951, pp. 9861-69.

the States shall have the exclusive power to make laws in relation to any entry in List II, which means that Parliament shall not have the power to make laws with regard to any item in List II. If Members of this House would refer to List II, they will notice that Entry 1 in that List refers to public order. Public order is one of the categories of heads of legislation which we are introducing for the first time in clause (2) of article 19, by this amending Bill. It is therefore quite clear that if you were to give Parliament power to make law in respect of public order which is included in List II, and which according to article 246(3) confers exclusive legislative jurisdiction upon the States, then it is obvious that such an amendment would require the ratification of the States. Now the intention of the Government as well as of this House, I think on this point is quite clear, namely, that we do not propose to make any amendment to any clause which would require the assent or the ratification of the States. From that point of view, I think, all those who have tabled this amendment would agree that it is not possible to accept that amendment without involving this particular Bill in a great difficulty which it would not be possible for this House to overcome within the time within which we propose to carry through this measure.

As the Prime Minister said yesterday, all of us have sympathy with the proposal, namely, that if it were possible Parliament should be given the power to legislate. We have also sympathy with the suggestion that the President may have the right to give his assent before the Bill becomes law. But the question that has to be considered is, is such a thing necessary ? Is it not contained in the very provisions of the Constitution ? Now, let me refer hon. Members to the heads of legislation we are introducing in the present clause and the place, they have in the various entries in Schedule Seven.

Take the security of the State. There is no particular entry of this nature—security of State—for the simple reason that the security of the State can be affected by a variety of entries and the power is necessarily distributed under different heads. At the same time hon. Members will see that entry 1 of List

1 is a very relevant entry so far as the security of the State is concerned. Take the second head—friendly relations with foreign States. That is covered by entries 9, 10 and 14 in List 1. Take the third head—public order, decency and morality. That is in entry 1 in List II.

Dr. S. P. Mookerjee: What entry?

Dr. Ambedkar: It is entry 1 in List II to some extent. And so far as newspapers, books etc. are concerned it is also related to entry 39 in List III. Contempt of court comes in entry 95 in List I and also in entry 14 in List III. Defamation is in entry 1 in List III. Incitement to an offence is in entry 1 in List III.

Now having had this information before the House, I think the House will understand that in the large majority of the cases since the entry either falls in List I or in List III, Parliament has in some cases the exclusive authority to make law, in some cases concurrent authority to make them.

Dr. S. P. Mookerjee: Will the Hon. Minister be more specific ? Where is the concurrent power to pass laws regarding public order ?

Dr. Ambedkar: With regard to public order, there is another entry—39 in List III—which speaks of books and newspapers. Newspapers are very much concerned.

Dr. S. P. Mookerjee: The Hon. Minister is arguing that with regard to certain matters—in fact with regard to all the matters either Parliament has concurrent jurisdiction or has exclusive jurisdiction. I would like him to be more specific.

Dr. Ambedkar: I am giving the entries.

Dr. S. P. Mookrjee: Public order?

Dr. Ambedkar: The large head for public order is entry 1 in List II. Newspapers may also come under public order.

Dr. S. P. Mookerjee: It is not.

Dr. Ambedkar: The point is this. Some law has to be related to some entry. How is the authority of Parliament or the authority of a State to be determined to make a law ?

Dr. S. P. Mookrjee: Will the Hon. Minister admit that Parliament has no concurrent jurisdiction in respect of laws relating to public order except newspapers ? Let us have it clearly.

Dr. Ambedkar: Yes.

Mr. Deputy Speaker: The Hon. Minister does not say that every item is in the Concurrent List.

Dr. Ambedkar: A large majority of them is exclusively in the jurisdiction of Parliament and in some cases the jurisdiction is also concurrent. Therefore my submission to the House is this—that nothing is necessary for the purpose of investing Parliament to make a law in the fields which are mentioned here as exclusive right of legislation. Parliament has, in certain cases, got also concurrent power so that it can check any abuse that the Provincial Legislatures may make of the power that we are conferring.

Dr. S. P. Mookerjee: What is the power regarding incitement to offence under the Concurrent List ?

Dr. Ambedkar: It comes under the Penal Code. Incitement to offence is a specific offence in the Penal Code.

Dr. S. P. Mookerjee: The Hon. Minister should read to the House entry 1 of.....

Dr. Ambedkar : I cannot yield to him just like he did not yield to the Hon. Home Minister. This is not a lecture room and I am not lecturing to the students either. I am making my point. If my hon. friend wants an exposition we can meet somewhere in the Constitution Club—and I shall be prepared to lecture to him.

Mr. Deputy Speaker: All that I can say is the hon. Member contends that entry 1 in List II—State List—only relates to public order and this is not covered. Incitement to offence is in the Penal Code. If he is not satisfied, he can draw his own inferences.

Dr. Ambedkar: It is open to you to say that this does not cover public order.

Mr. Deputy Speaker: All that the Hon. Minister wants to show is that with respect to the majority of the offences, they are either in the Union List or in the Concurrent List. The minority may be more important than the majority.

Dr. S. P. Mookerjee: The Hon. Minister stated that incitement to offence comes under entry 1 in the Concurrent List but that item reads like this :

> "Criminal law, including all matters included in the Indian Penal Code at the commencement of the Constitution but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power ".

Dr. Ambedkar: I will not give in. I would like to finish my speech before one o'clock …….

Dr. S. P. Mookerjee: It means that there will be no incitement to any offence which comes under public order in List II……..

Dr. Ambedkar: I am not running away from that point. I am very much interested in it.

Dr. S. P. Mookrjee: I know you are.

Dr. Ambedkar: Yes, I am.

I now come to the President's assent. Under article 200 of the Constitution the Governors or the Rajpramukhs of the different States are empowered to withhold their assent from any particular Bill and refer it to the President. That provision already exists. Naturally the Governor has to act on the advice of his Minister and if he felt that a measure should be reserved for the consideration of the President, the power is already there. No new power is required. But it may be argued that this power is in a sense nugatory, because it depends upon the advice given to him by the Ministry and the Ministry which has been a party to a measure cannot be expected to give their advice to the Governor to refer the matter to the President.

There is also another article 254 which deals with the laws in the concurrent field and that article says that if there is any inconsistency between any law made by Parliament and a similar law on the same subject made by a State Legislature,

then to the extent of the repugnancy and inconsistency the law of the State shall be void. There is in addition to that a further provision in clause (2) of that article that if such a law, which is inconsistant with the law made by Parliament on the subject, is reserved for the assent of the President and the President gives his assent, notwithstanding the repugnancy the law shall remain void so far as that State is concerned. So far as our experience in the Law Ministry goes almost every State has got the fear that their law may be declared to be inconsistent and hence void. In order to prevent this contingency the States have always taken the safest course to refer all these measures to the President for his consideration and assent and his assent has generally been given either in the form in which the Bill stands or with some modifications. Therefore my submission is that so far as the Constitution is concerned articles 200 and 254(2) contain enough safeguards to see that such measures do reach the President and receive his consideration and assent.

Shrimati Durgabai : Under what procedure ?

Dr. Ambedkar: I was just referring to it. Under article 254(2)……..

Shrimati Durgabai : How **?**

Dr. Ambedkar: I know some people have got a bee in their bonnet. On all these three counts I submit that all these amendments are quite unnecessary.

I propose to deal with some of the points raised by my friend Pandit Kunzru. So far as his amendment dealing with change of words is concerned, his words I suppose are merely poetical alliterations and I do not think there is any substance in them, whether you call it friendly relations or by some other words : the substance and the head of legislation remaining what it is. I am therefore not prepared to spend my time in dealing with them.

But he has been making a great deal of capital with regard to the American case which he can never forget namely Near *versus* Minnesota. It is true that the U. S. Supreme Court

nullified a law which had made previous restraint as unconstitutional. But with regard to that case I think it is not desirable to fix our banner and standard by the decision that was given, because I would like to draw my learned friend's attention to some of the incidents with regard to that particular case. I have a book with me and I shall give the name. I know that Dr. Mookerje is very careful in pursuing these matters. The book is *Free Speech in the United States*. There are various other books also which he must have known. Now with regard to this particular case the first point which the American writers have themselves noted is that it is a decision which was arrived at by a bare majority of one single judge ; it was a decision which was given by five to four. The second thing is that at page 380 the writer himself has said that on account of this very narrow majority—

> "The Near case had ho immediate effect beyond voiding the Minnesota statute, which is said to have grown out of a nasty local situation."

I would also like to read to him a portion of the judgment delivered by the chief of the dissenting judges which I think is worth quoting. This is what Mr. Justice Butler who headed the minority said:

> "It is well known .....that existing libel laws are inadequate effectively to suppress evils resulting from the kind of business and publications that are shown in this case. The "doctrine that measures such as the zone before us are invalid as previous restraints exposes the peace and good order of every community and the business and private affairs of every individual to the constant and protracted false and malicious assaults of any insolvent publisher who may have purpose and sufficient capacity to contrive and put into effect a scheme or programme for oppression, blackmail, or extortion."

That also is a demand which must be taken into consideration in dealing with the liberty of the press. The other thing which my friend has been harping upon all along is the phrase used by Justice Holmes in dealing with cases relating to freedom of speech which is called "clear and present danger". I have been trying to find out whether that is a very new doctrine so far as we are concerned. I suppose our judges also adopt the same doctrine. Supposing, for instance, a professor delivered a lecture on Communism in the Delhi University

to the students. I do not suppose, although he may mention to them the violent methods that the communists adopt in order to achieve their object that anybody would hold that merely because he delivered a lecture to the students he was guilty of any offence. There was no "clear and present danger" and I have no doubt about it that our judges also would uphold the same line of reasoning. Therefore, as I said, I do not understand why our friends are abiding so much by certain catch phrases and certain decisions of the courts in the United States.

I will now deal with the question of confining "incitement" in violence and I want my friends, Dr. Shyama Prasad Mookerjee and also Pandit Kunzru to pay some attention to what I am saying—and I will take some very particular cases. First of all, I would like to know whether they are in a position to give a precise definition of the meaning of the word "violence". What is "violence" ? Is it to be confined merely to physical violence ?

Dr. S. P. Mookerjee: Violent words are excluded.

Dr. Ambedkar: I am not talking of violent words. Have they been able to give us any precise definition which would enable the legislature and the court to know that this is violence and this is not violence ? I cannot find any.

Shri Kamath: Put it as "as defined by law".

Dr. Ambedkar: It is only postponing the trouble. Some day when we make the law we shall have to give the definition of "violence".

I come now to specific instances. Supposing, for instance, there is trouble—I am giving some concrete cases which have happened—and there is trouble between the Scheduled Castes and caste Hindus in a particular village and the caste Hindus conspire together to proclaim a social boycott on the Scheduled Castes, preventing them from obtaining any kind of supplies, preventing them from going into the fields, preventing them from going into the jungles to collect fuel, then I want to know from Dr. Syama Prasad Mookerjee and Pandit Kunzru whether they want this, as an offence, to be regarded by the State as such or not.

Shri Naziruddin Ahmad : Doctors differ in this respect.

Dr. Ambedkar: I shall give another illustration which was recently reported in Bombay. In a place near Thana there was trouble going on between caste Hindus and the Scheduled Castes over the taking of water from a particular well. With the help of the police the Scheduled Castes there were able to secure their right to take water from that well along with the caste Hindus. The caste Hindus did not like the matter. They wanted the well to be exclusively used by them. Two days ago there was a report in the Bombay Press wherein it was stated that some caste Hindus incited some of their men to drop into it some kind of poisonous weeds. The result was that the whole water was poisoned and some of the Scheduled Caste people who drank the water suffered from the effect of the poison. I want to ask both of them whether they would limit their definition of incitement to violence, or whether they would extend it to cover where one community does something in order to harm and injure another community.

Dr. S. P. Mookerjee: In such a case you and I will go there to prevent it.

Dr. Ambedkar: You and I cannot go everywhere. You will be engaged in fighting the elections and I may be doing something else and we will have no time to go to the rescue of those people. It is no use taking the responsibility on our shoulders. It is much better that the law provides for it.

Then with regard to particular laws, I and my colleagues or the Treasury Benches have been shouting time and over again that in this Bill what we are doing is to merely confirm capacity on Parliament to make laws for certain purposes. We are not enacting particular laws. We are not even protecting the laws as they exist today. But somehow Members who are determined to oppose. Members who are determined to take the opposite view—if they will forgive me—out of pure obstinacy are not able to make this distinction between capacity to legislate and making a particular law.

Dr. S. P. Mookerjee: The obstinacy is yours not to understand.

The House then adjourned till Half Past Three of the Clock.

The House reassembled Half Past Three of the Clock.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

*** Shri Hussain Imam:** I wish to draw the attention of the House that no zamindar in his senses objects to the dictum laid down by the Constitution or by the Hon. the Prime Minister. The whole quarrel arises whether the intention of the Constitution is carried out or something is being foisted on us in the name of the Constitution which is not covered by the terms of the Constitution as embodied in the Constitution Act. And secondly……

An hon. Member: We are amending the Constitution.

Shri Hussain Imam: No. What we are doing is, according to the Prime Minister to carry out the intentions of the Constitution which our wording had failed to do. And there I am at one with him, that as a member of the Constituent Assembly, I am as much a party in this—though I was not present on that day—as anybody else is. There were two cardinal principles of the Constitution—firstly about the Acts which are passed after the Constitution came into effect and those Acts which were passed upto 18 months before the Constitution was brought into effect. Now I ask you, the House and the Law Minister to certify that the eleven Acts are covered by these two categories. Only four Acts come under the category that are passed after the Constitution and had received the assent of the President. Seven Acts are not covered by this.

Dr. Ambedkar: They were assented, I understand.

Shri Hussain Imam : None, except the four. They are the Bihar Act, U. P. Act, Madhya Pradesh Act and the other Act. All the rest have not been assented to.

Shri Bharati (Madras)**:** Madras Act has been assented to.

Shri Hussain Imam: Madras Act I of 1950 has been assented to, not the 1948 Act. I refer to this fact because in the beginning I spoke on the subject and suggested that ample time should be given to the House and to the Select Committee to examine these thoroughly ……

* P. D., Vol. 12., Part II, 1st June 1951, pp. 9906-07.

The other thing to which I would like to draw attention is to the dictum laid down by the Hon. Prime Minister that we must pay fair, adequate compensation and not too much and I agree with that dictum. But do consider the things as they are existing. I am one with the Government in abolishing zamindari but on fair terms.

Dr. Ambedkar: The words 'fair compensation' do not appear in article 31.

Shri Hussain Imam : It was the wording of the Hon. Prime Minister. As far as article 31 is concerned, my charge is that the seven Acts that you are thrusting down our throats are not covered by the original provisions of article 31.

Dr. Ambedkar: They are governed by new article 31A.

Shri Hussain Imam : I was referring to the fact that we must face the facts. The Socialist party says that they are not going to honour the instialments that are going to be fixed by the Congress Government. The Communists have declared from the housetops that they are not going to honour it. Why be in a fool's paradise and believe that it will be paid in 40 years ? Half a loaf is better than nothing and if you have to give you should give now. You should realise the plight of small landholder of zamindar who has an income of 500 or 600 or 1,000 rupees. He is not a bloated capitalist. I aver that at least the lower income group should be given compensation in lump sums so that they may start some business.

***Dr. Ambedkar:** As to my own amendment I do not think that any argument is necessary in, order to support the same. The amendment is merely an amplification as to the meaning of the word "estate". Some people felt that while we had taken note of the laws that prevail in Part A States with regard to the definition of the word "estate", we had not taken sufficient notice of the definition of the word "estate" operating in Part B States. In order to remove that doubt I felt that it was necessary to take note of it and to amplify the definition of the word "estate", which I propose to do by my amendment.

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* P. D., Vol 12, Part II, 1st June 1951, pp. 9912-15.

My principal ground for rising to take part in the debate is to deal with the point that was raised by my hon. friend, Ch. Ranbir Singh. His argument, if I understood it correctly, was this that while in some States in India the word "estate" is used in a limited sense so as to include only what we call intermediaries but not to include what we call the *ryotwari* estates, that is, people holding it in their own right without there being any intermediaries between them and the State, it is quite true that there are some States where the definition of the word "estate" is a wide one and might possibly include holders under *ryotwari* or occupants under the Bombay Land Revenue Code, or *ryots* in other parts of India. At one time I thought that it might be possible to give a limiting effect to the word "estate" by the addition of an explanation, but on further consideration I find that it is more or less impossible to give an explanation which would cover the point. But I would like to say this, that there is no intention on the part of Government that the provisions contained in article 31A are to be employed for the purpose of dispossessing *ryotwari* tenents.

Shri Hussain Imam: However big they might be ?"

Dr. Ambedkar: Well, that is a different matter. We are making a distinction between intermediaries and *ryotwari* holders.

Now, that is certainly not the intention of the Government: I know that friends who are interested in this matter would hardly be satisfied with any expression of intention on the part of Government, but I think there is much more than mere intention in the Bill itself. If my friend Ch. Ranbir Singh, would refer to the proviso attached to article 31A which requires that every such Bill shall be reserved for the consideration of the President, I think he will see that there is a certain amount of safeguard in it, and, as I hope the Prime Minister in his speech in reply to this debate will also make it clear, there is no such intention on the part of Government and I believe that whenever any such measure before the President for consideration, the undertaking given in this House would be binding upon the President in giving his

sanction so far as any such measure is concerned. Therefore, I submit there is no ground for any fear of any such thing happening and I believe that there is also no justification for any kind of propaganda that may be carried on by interested parties that this Bill proposes to give power to Government to expropriate everybody including the *ryotwari* tenants. I hope that this will satisfy my friend, Ch. Ranbir Singh.

With regard to the question that has been put to me by Durgabai...'

Shri R. K. **Chaudhuri** (Assam) **:** Shrimati Durgabai.

Dr. Ambedkar: These encumbrances I do not think are very necessary. I feel terribly embarrassed when somebody calls me *Shri. Shri* means wealth—I have none of it.

Shri R. K. Chaudhuri: May I mention that sufficient mischief has been caused by my friend, Dr. Ambedkar, calling me by my short name the other day ?

Dr. Ambedkar: I thought you agreed, that that did not change your sex?

Shri R. K. Chaudhuri: That is how jealousy has been created in the minds of some sections of the House.

Shrimati Durgabai: At least not in my mind.

Dr. Ambedkar: Now with regard to that, the relevant provision in the Madras Act is section 45. That section 45 deals with impartible estates. It does not deal with ordinary estates and the provision, so far as I understand it, is that the matter of deciding whether and how the compensation is to be distributed is left to a tribunal. This Bill does not add to the powers of the tribunal; this Bill does not take away any of the powers that are given to the tribunal for that particular Act. I think within that ambit things will proceed in the way the Madras Act has determined.

Dr. Deshmukh: May I ask a clarification of the Hon. Law Minister? The Hon. Doctor has told us that there is no intention to dispossess or limit the *ryotwari* tenures. There are six Acts of Bombay in the Schedule. If any of these Acts

do limit the *ryotwari* tenure, how far would it be proper to add those to the Schedule and how far does it cover the intention of Government not to bring in the ambit of this amending Act the *ryotwari* tenure or to limit their extent ?

Dr. Ambedkar: I know something of these Acts, coming from Bombay as I do and having practised in the High Court. Having had to deal with many cases, I have no doubt about it that the Khoti Abolition and other Acts to which my hon. friend has referred deal only with what we call intermediaries.

Shri Jawaharlal Nehru : My colleague the Law Minister has dealt with many of the points that heve been raised, ...

*** The Minister of Law (Dr. Ambedkar):** On listening to the debate I believe the House desires that the powers of adaptation vested in the President should continue and that it is a very useful instrument which has been forged by the Constitution for the purpose of bringing the laws already passed into conformity with the provisions of the Constitution. On that, I do not see any kind of difference of opinion. The only question that has been raised is this : why is it that the President has not been able to make modifications in the laws that appear to be inconsistent with the provisions of the Constitution during the period that has elapsed between now and the passing of the Constitution and why is it that further time is necessary. That seems to be the only point which requires clarification.

It has been stated that the Law Department has been very lax. Some friends have said that it has gone to sleep.

Babu Ramnarayan Singh (Bihar)**:** That is right.

Shri Hussain Imam (Bihar)**:** Dozing.

Dr. Ambedkar: I do not know whether such statements are mere matters of imagination or whether there is any

* P.D., Vol 12, Part II, 2nd June 1951, pp. 10007-13.

substance behind them—I think all hon. Members will agree that the Law Department is the smallest Department in the Government of India.

Babu Ramnarayan Singh: Why ?

Shri T. Husain (Bihar)**:** There is the Department of Parliamentary Affairs.

Dr. Ambedkar: The Department of Parliamentary Affairs has nothing to do with the Law Ministry ; it is quite separate from it.

I should like to say that in the Law Ministry there are only three draftsmen. I have pressed on the Finance Ministry the necessity of increasing the number of draftsmen ; but I have failed.

Shri Kamath: A Deputy Minister ?

Dr. Ambedkar: A Deputy Minister cannot do anything in this matter, because no Minister can do drafting.

The House also will remember the amount of legislation that is being put forth before it ever since the Constitution came into existence. I believe, I am speaking from memory, that in each session there are something like 30 or 40 Bills which are presented. Some of them are (carried) through and some of them are left over. Out of those that are left over, some are converted into Ordinances and the House again sits to convert the Ordinances into laws. Now, it might well be imagined whether it is possible for three draftsmen to draft 40 or 50 Bills for each session, and yet have spare time for doing something else. That is a point which I think the House should consider in judging the work.

Shri P. Y. Deshpande (Madhya Pradesh)**:** Who is responsible for there being only three ?

Shrimati Durgabai: May I ask a question ? Is it only a question of drafting or changing the substance of the laws ?

Dr. Ambedkar: I am coming to that; please do not be in a hurry.

Therefore, the normal work of the Law Ministry is so heavy and it is very difficult to cope with it. The adaptation work

is something abnormal and something that is new that has been thrown upon the Law Ministry. There has been no expansion of the staff to cope with this new work. That is one point which I think the House will remember when criticising the Law Ministry for not completing the work of adaptation.

The work of adaptation obviously fails into two categories. There are adaptations which are merely of a formal character. For instance, in the existing laws, the expression used is 'Provincial Government'. Today, the expression that is used for the corresponding, purpose is "State Government". These are formal amendments. These amendments have already been carried out and I do not think any part of that work remains. But, the other part of the adaptation work, namely, making substantial modifications in the existing laws in order to bring them into conformity with the provisions of the Constitution is a totally different business from the formal kind of adaptation to which I have referred.

Now, let us consider how it is possible to proceed methodically with regard to making modifications of a substantial character in the existing laws of the country, in order that they may be brought into conformity with the provisions of the Constitution. Obviously there must be some officer somewhere at the Centre whose duty it would be to, what we call, note on the Acts in the various States and Acts made by the Centre, in order to ascertain for himself whether there is anything in any of the existing laws—whether they are made by the Centre or by the Provinces—which he thinks at the initial stage requires consideration from the point of view of adaptation. After that work is done, the matter may come to the Law Ministry for further examination whether there is any substance in the note made by that particular officer. There again the matter cannot end. Obviously, there must be further correspondence between the Law Ministry and the Law officers in the States in order to find out whether they agree with the view that certain of their laws are inconsistent with the provisions of the Constitution. If they agree, well and good; action may be taken. But, if they do not agree, then, obviously, the matter has to be referred to the Advocate

General of the State and also the Attorney-General of the Government of India, because, in this matter, they are the final advisers of the Government and on whose advice alone the Government could act. The number of Acts in the Provinces are legion : the number of Acts made by the States are equally large. One can well imagine the amount of time which would be necessary in order to go through the process which I have detailed here before the Central Government could come to the conclusion that a particular law must be declared to be null and void or must be modified in certain parts in order that it may be brought into line with the Constitution and the President may accordingly issue an Order. It is therefore not quite so easy as some people in the House seem to think. It is a very elaborate and labourious process.

After all, what is the President in this matter? The President is a law making authority. His authority is practically *co-extensive* with the authority of Parliament. But, in order that it may be done in an expeditious manner, we have vested the President with this particular power. I am sure that so important and so crucial a power of law-making practically could not be exercised in a hurried manner and to make some kind of a change may be absolutely inappropriate and quite unjustified. These are the reasons why it has not been possible for the Law Ministry to complete the task and why the Law Ministry thinks that perhaps one more year may be necessary. It should also be remembered in this connection that the Law Ministry has been now for the last three months practically busy with the work of elections, preparing the two Representation of the People Bills, delimitation of constituencies, considering the amendments that are coming to the Order of the President delimiting the constituencies etc. They will also be busy with making rules and all sorts of other things relating to the elections and these are matters which are now outstanding before the Law Ministry. And especially in view of the limited staff of the Law Ministry, I cannot see how any spare staff can be found or how time can be found to be devoted exclusively for the purposes of carrying out the object laid down in article 372. Therefore,

further time is necessary. And that is the reason why this amendment has been moved.

With regard to the point made by my friend Ch. Ranbir Singh relating to the declaration that the Punjab Land Alienation Act is invalid and inconsistent with the provisions of the Constitution, I should like to say this. The point that he raised was that it was wrong on the part of the Government of India to have abrogated the whole of that legislation that has been operating there. Well, this matter also was considered in the Law Ministry, whether it was possible to modify some of the provisions of that Act and leave the rest intact. But I should like to tell the House that with all the goodwill in the world, so far as that Act was concerned, both the Attorney-General here and, if I remember correctly, the law officers of the Punjab Government agreed that every one of the provisions of that Act was inconsistent with the Constitution. Therefore we had no remedy left except to declare the whole Act invalid.

Now, I have given the justifications to the House why this amendment is necessary and I hope the House will be satisfied with the explanation that I have given.

Shri Kamath: What about the suggestion to have a Committee of this House to help the Law Ministry ?

Dr. Ambedkar: Yes. With regard to that, there again, as I said a Committee of the House might help at a much later stage. But unless I am in a position to place before any Committee of this House material which has already been examined by somebody, the Commiittee, in my judgment, could not come to any conclusion. Preliminaries will be necessary and I myself have got an idea in my mind that it may be desirable to appoint a small Committee of some retired High Court judges to examine the matter and report to us as to what are the laws which require consideration from the point of view of article 372.

Shri Kamath: Members of the House ?

Dr. Ambedkar: I thought my friend said lawyer Members. Yes, they may be co-opted. After the report is received, they may be taken into confidence and the matter may be decided.

Shrimati Durgabai: I would like to get one point cleared by the Hon. Law Minister. We have been told that whenever a law is made by a State Legislature on any item in the Concurrent List, it would come to the Centre automatically for consultation, advice and all that. I would like to know when such a proposed legislation is sent to the Centre, whether the matter is left to the draftsmen to decide whether the law is inconsistent or not ? What is the procedure ?

Dr. Ambedkar: The lady is thoroughly confused. I am sorry to say.

Shrimati Durgabai: That does not matter. The Law Minister may clear up the confusion.

Dr. Ambedkar: Adaptation applies to existing laws. It does not apply to future laws. All the laws that come to us for such consultation are future laws. The article deals with the existing laws which were made when there was no Chapter on Fundamental Rights anywhere in the Government of India Act and which have now become subject to the Fundamental Rights, and therefore inconsistent. So the inconsistency has to be removed.

Mr. Deputy Speaker: The point is, with respect to any law that is being now made. If it is in the Concurrent List, it is reserved for the President's consent. When such a law comes up, it is left to the draftsmen to find out whether it is inconsistent or not?

Dr. Ambedkar: The draftsman certainly plays his part; but the Law Ministry takes the responsibility and the Cabinet also takes the responsibility.

Shri Husain Imam : May I know what is the position with regard to those Acts that are in the Schedule ? Have they been adapted or are they proposed to be adapted ? For instance the Bombay Act LXVII has certain reservations on the lines of the Punjab Land Alienation Act which has been declared *ultra vires*. Do Government propose to modify this Act ? It is item 2 in the Ninth Schedule. The Bombay Tenancy and

Agricultural Lands Act, 1948 does not deal with abolition of zamindaries, but says that transfer shall not take place between certain classes.

Dr. Ambedkar: The answer of the House is that these Acts shall be validated by the Constitution without the necessity of adaptation. I am bound by the decision of the House. This point should have been raised yesterday.

Shri Naziruddin Ahmad: I raised that very point yesterday, but you rejected it.

Shri Rajagopalachari: Further questions may be postponed to the interpellation programme, and the present clause may be got through.

Mr. Deputy Speaker: We have had sufficient discussion.

The question is:

"That clause 12 stand part of the Bill."

The House divided: *Ayes, 232: Noes,* 9.

*** Prof. S. L. Saksena:** It hurts me very much that this amendment should be made to our Constitution. After all, when we framed our Constitution we were very careful to see that our judiciary is above suspicion and that it is independent and able to interpret the Constitution in the best manner possible. Still we have found the Law Minister accusing the Supreme Court the other day of having wrongly interpreted the purpose of one of the provisions. The Prime Minister also has been saying that the intention of the makers of the Constitution has not been brought out by the interpretation of the judges of the Supreme Court and of the High Courts. I think this is a very unfair criticism : if the Supreme Court judges who have given these rulings were foreigners probably there might have been some suspicion, that they were not patriotic and therefore did not interpret our laws correctly. I personally feel that if you...

* P. D., Vol 12, Part II, 2nd June 1951, pp. 10020-21.

Dr. Ambedkar: I should like to repudiate any such suggestion as my hon. friend is making. We impute no bad motives to the Judges.

Prof. S. **L. Saksena:** I am glad that he has said it today. Apart from the reasons given by my friend, Prof. Shah, that we should not change the Constitution for the sake of four persons, still even on principle I think that a foreigner sitting in the place of the Chief Justice will not have the independence and courage to give a judgment which will be above suspicion. The Law Minister said that nobody has cast an aspersion on the Judges. I have carefully read the speech of the Prime Minister……

Mr. Chairman : May I just remind the hon. Member that the point at issue is not what the Law Minister or the Prime Minister has said in some other connection ? We are considering this clause and their view is not relevant to its consideration. The only point relevant is whether this clause should be accepted. I would beg of the hon. Member to confine his remarks to this question alone.

*** Shri Rajagopalachari:** The hon. Member wants to know what prohibition there was which we are trying to remove. Article 217 contains the prohibition against any Judge being a non-citizen. All the Judges would be covered by that provision. That is sought to be removed by a transitory provision.

Mr. Chairman: If a person cannot become a Judge of a High Court how can he become the Chief Justice ?

Shri Shiv Charan Lal: Transfer is covered by article 222. Therefore, for transfer it is not necessary that the Judge should be a citizen and it is not necessary to have this amendment.

Dr. Ambedkar : Sir, if it satisfies the House I would like to propose an amendment to clause 13 which would read thus :

In page 4, lines 8 and 9, "or of the Supreme Court".

Shri Kamath: That is one of my two amendments that I have moved.

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* P. D., Vol 12, Part II, 2nd June 1951, p. 10024.

Dr. Ambedkar: Well, I am prepared to accept yours, if you like. I do not think any further reply is necessary from me if the House is satisfied with the deletion of the words "or of the Supreme Court".

Mr. Chairman: I shall now put the amendments to the House. (Prof. Shah's amendment was negatived.)

***Mr. Chairman:** The next is seeking to omit the words "or of the Supreme Court". It is the same amendment that Dr. Ambedkar has proposed.

Shri Jawaharlal Nehru: It is exactly the same.

Shri Kamath: But I have moved it and Prof. Shah has also moved it.

Mr. Chairman: The amendment is there and I am bound to put it to the House.

An hon. Member: It may be withdrawn.

Prof. K. T. Shah: Why should I withdraw it ?

Mr. Chairman: The qustion is:

In page 4, lines 8 and 9, omit "or of the Supreme Court".

The motion was adopted.

Mr. Chairman: The question is :

In page 4, after line 9, add:

> "Provided that such Chief Justice or other Judge of a High Court shall acquire citizenship of India within three months of such appointment; and provided that no one who is not a natural born citizen of India shall be appointed Chief Justice or Judge of the Supreme Court of India."

The motion was adopted.

**** Dr. S. P. Mookerjee:** This, as the Prime Minister has said, is a consequential change. Apparently, it refers to the Hyderabad Regulations which the House incorporated on an

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* P. D., Vol 12, Part II, 2nd June 1951, p. 10024.

***Ibid.,* pp. 10035-36.

amendment moved on the floor of the House. What about the last part of the clause ? It says :

> ".....each of the said Acts (and Regulations, if this is accepted) shall, subject to the power of any competent legislature to repeal or amend it, continue in force."

So far as .these Regulations are concerned, they cannot be repealed or amended by any Legislature when there is no Legislature in Hyderabad. There also, it should be altered by saying 'legislature or other competent authority'.

Dr. Ambedkar: Whatever legislature there is, it will have the right to amend.

Mr. Speaker: There is confusion about the meaning of the word * legislature'. A legislature is conceived as consisting of a Chamber with elected representatives and so on. I believe the legislature here means, the Rajpramukh who is himself the legislature. That I think is the constitutional meaning.

Dr. Ambedkar: Yes.

Mr. Speaker: If that is so, there is no difficulty.

The question is :

In page 2,

(i) line *35, after* "Acts" *insert* "and Regulations".

(ii) line 36, *after* "Acts" *insert* "and Regulations".

(iii) line 39, after "Acts" *insert* "Regulations".

(iv) line 42, *after* "Acts" insert "Regulations".

The motion was adopted.

Shri Kamath: Is it not necessary to put this clause, as amended, to the House ?

Mr. Speaker: Is it really necessary ? The position will be like this. "That the Bill, as amended, be passed" will be the motion I am going to put to the House. There is no particular clause again to be put to the House. The hon. Member will note that clause 5 was voted upon and the House has assented to it. Votes were taken separately on that clause. This amendment comes in as a consequential amendment.

Mr. Speaker: Under rule 94.

Dr. S. P. Mookerjee: It is for you to consider this. With regard to clauses, you have ruled deliberately for the sake of safety that every clause should be put separately and the votes of two-thirds of the Members present and voting should be recorded. Now, clause 5 has been passed in accordance with that direction. Now, we are amending clause 5. Is it not desirable and safe that clause 5, as amended, should be put separately and votes recorded ?

Mr. Speaker: That would be an irregular procedure. That clause, in the clause by clause consideration at the second reading, has been already accepted by the House. The proposition before the House is that the entire Bill, as amended, be passed. The amendment is merely a consequential or verbal amendment, which is permissible at this stage. No substantial amendment is permissible at this stage.

Orissa Order

* **Dr. Ambedkar:** I beg to move :

[For text of the motions *see* Appendix XXXIII, annexure 1]

West Bengal Order

Dr. Ambedkar: I beg to move:

[For text of the motions *see* Appendix XXXIII, annexure 1]

Madhya Pradesh Order

****Dr. Ambedkar:** I beg to move:

[For text of the motions see Appendix XXXIII, annexure 1]

Rajasthan Order

Dr. Ambedkar: I beg to move :

[For text of the motions *see* Appendix XXXIII, annexure 1]

PART C STATES ORDER

*** **Dr. Ambedkar:** I beg to move:

[For text of the motions *see* Appendix XXXIII, annexure 1.

**** REPRESENTATION OF THE PEOPLE (NO. 2) BILL—*contd.*

The Minister of Law (Dr. Ambedkar): Sir, with your permission, I would like to move certain formula and consequential amendments to the Representation of the People (No. 2) Bill as it has emerged from the second reading. I beg to move :

"That the Bill, as amended, be passed."

Mr. Chairman : Motion moved :

"That the Bill as amended, be passed."

Shri Kamath (Madhya Pradesh)**:** Before the Law Minister proceeds to move these amednments may I remind you of what I requested the hon. Speaker yesterday that this House is

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*P. D., Vol 12, Part II, 4th June 1951, p. 10110.

***Ibid.,* p. 10111.

****Ibid.,* p. 10112.

*****Ibid.,* 5th June 1951, pp. 10202-03.

entitiled to have notice of amednments. I must record my protest against this in the most emphatic terms that these lists of amendments were received not even last night but only this morning at about seven O'Clock—just an hour before we left home for Parliament. I feel that in the circumstances the Law Minister may put of moving his amendments till tomorrow and that Members be given adequate time to scrutinize and examine the amendments and to give notice of any amendments to these amendments I must request you to hold that these amendments have come very late and House must be given at least a day for examining the amendments and for submitting amendments to them.

Shri J. R. Kapoor (Uttar Pradesh)**:** I associate myself with the suggestion made by Shri Kamath that as these amendments have been sent to us this morning, we might be given some reasonable time to see whether in our opinion they fit in with the scope and object of the Bill. I do not mean to raise any technical objection. I am never in that habit…….

Shri Kamath: Mine was not a technical objection either.

Shri J. R. Kapoor: Therefore, I am associating with Shri Kamath's suggestion. We are very particular about this Bill and are anxious to see that no amendemnt—even though it might have been carefully looked into by the hon. Law Minister—should be allowed to be incorporated in the Bill unless we have had a reasonable opportunity of analysing it.

Dr. Deshmukh (Madhya Pradesh)**:** I think the suggestion made is quite reasonable and I hope that you will be pleased to accept it……. Under those circumstances, it is but fair that hon. Members of this House should have an opportunity of seeing what consequential amendments are proposed and if there is any necessity for the same. They should have a fair opportunity of giving notice of any amendments they wish to move. There are many other measures that can be taken up today.

Mr. Chairman: I would like to know the reaction of the Hon. Law Minister.

Dr. Ambedkar: I contend that these amendments are purely formal and consequential. There is nothing which raises the question of substance. However, if Members think that they need some time, I have no objection to the matter being taken up tomorrow subject to the other business of Government.

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha) : The next item on the agenda may be taken up.

Mr. Chairman: I quite see the reasonableness of the request.

*[For text of the motions See Appendix XXXIII, Annexure 4.]

MADHYA PRADESH ORDER

Shri M. A. Hassan Madhya Pradesh)**:** I beg to move:

[For text of the motions see Appendix XXXIII, Annexure 4]

The Minister of Law (Dr. Ambedkar): I beg to move :

[For text of the motions see Appendix XXXIII, Annexure 4]

UTTAR PRADESH ORDER

Pandit Balkrishna Sharma (Uttar Pradesh)**:** I beg to move:

[For text of the motions *see* Appendix XXXIII, Annexure 4]

Mr. Speaker: I do not know what the Government proposes to do about the motions in respect of the U. P. Order. The motions have to be moved to-day.

Dr. Ambedkar: I am in a difficult situation, because the revised order is not yet ready.

Mr. Speaker: Will it be ready by one o'clock to-day ?

Dr. Ambedkar: We are trying our best and I shall let the House know and let you also know before one o'clock how the position stands.

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* P. D., Vol. 12, Part II, 7th June 1951, pp. 10342-43.

Mr. Speaker: The point is that before one o'clock the motions must be made in the House. Otherwise, perhaps, the motions will not be admissible at all. Threfore, I would suggest the motions may be moved and examined and then it will be possible to suggest amendments in the motion. That would be one of the courses open. The Hon. Law Minister may consider that, I mean amendments so far as language and other such things are concerned and not amendments of substance.

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* MOTIONS Re. DELIMITATION OF CONSTITUENCIES ORDERS, 1951—*contd.*

The Minister of Law (Dr. Ambedkar): I should like that the Assam order be first taken into consideration.

Mr. Deputy Speaker: Yes. A number of amendments have been tabled to this. For the purpose of convenience is it not possible to ascertain what amendments the Hon. Law Minister is prepared to accept, in which case the other amendments may not be pressed ? Of course, if there are any Members who want to press their amendments we can deal with them.

Dr. Ambedkar: With regard to Assam I have many amendments.

Mr. Deputy Speaker: Therefore, if the Hon. Minister moves his amendments first, whatever is not covered we can address ourselves to it later.

Dr. Ambedkar: My amendments are in Suppl. List 4, Nos. 1 to 8. They are purely technical amendments and there is no point of substance involved. On further consideration I propose to withdraw Nos. 1 and 2 of my amendments.

The amendments, by leave withdrawn.

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* P. D., Vol. 12, Part II, 8th June 1951, p. 10500.

*** Shri Chaliha:** I also like to press my motion No. 2 in supplementary List No. 2. I do not press No. 1.

In the constitution it is provided that the Shillong constituency will be open as a general constituency. Article 332(6) says :

> "No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district except from the constituency comprising the cantonment and municipality of Shillong."

I think Dr. Ambedkar has accepted this and it is said that was a printing mistake and that it will not be reserved for the Scheduled Tribes but that it will be a general constituency. Through mistake or otherwise it has been reserved for the Scheduled Tribes. It should not be reserved for them. It should be open for the general population. This has been specifically provided in the Constitution as I have already pointed out.

Dr. Ambedkar: I had said that the office has treated it as a printing error and that we propose to issue a corrigendum. Probably it has already been issued.

Shri Chaliha: In that case I would like to withdraw that motion (No. 2 in Supplementary List No. 2 relating to Assam Orders).

The motion was, by leave, withdrawn.

** **Dr. Ambedkar:** I would like to accept the following amendments :

Consolidated List I—parts 1 and 2.

Consolidated List I—amendments 1 to 4.

Mr. Deputy Speaker: That means 50 per cent. of Mr. Das's amendments.

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* P. D., Vol. 12, Part II, 8th June 1951, p. 10503.

** P. D., Vol. 12, Part II, 4th June 1951, p. 10510.

Shri Biswanath Das : I gave notice of other amendments.

Mr. Deputy Speaker: None here.

Shri Biswanath Das : Even these amendments represent only the few that I had to give notice of after persistent requests from the members of different districts, I had another amendment. After they were accepted by the Hon. Minister I thought they would give notice of them.

Dr. Ambedkar: I have given the amendments that I have accepted.

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* **Mr. Deputy Speaker:** The question is :

[For text of the motions *see* Dr. Ambedkar's amendments Nos. 1 to 3 (Orissa Order) in Appendix XXXII, annexure 1].

The motion was adopted.

Mr. Deputy Speaker: To that extent the President's order is modified.

The question is :

That the following modification be made in the Delimitation of Parliamentary and Assembly Constituencies (Orissa) Order, 1951 laid on the Table on the 16th ay 1951, namely:

1. That at page 1, in Table A—Parliamentary Constituencies, in column 1, for the entry "Dhenkanal" the entry "Ganjam-South" be substituted ".

1. That at page 1, in Table A—Parliamentary Constituencies, in column 1, for the entry "Ganjam-South" be substituted".

The motion was adopted.

Dr. Ambedkar: My own amendment is in Supplementary List 2, Nos. 1 to 5. I accept the one in the name of Mr. Biswanath Das 1 and 2, the second with the modification "North East Ganjam" as "Ganjam South". The other amendment which I have accepted is in Supplementary List No. 1, 1 to 4 as modified.

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* P. D., Vol. 12, Part II, 4th June 1951, pp. 10511-13.

Mr. Deputy Speaker: The question is:

That the following modifications be made in the Delimitation of Parliamentary and Assembly Constituencies (Orissa) Order, 1951, laid on the Table on the 16th May 1951, namely:—

1. That at page 1, in Table A—Parliamentary Constituencies, for the entry "Koraput in column 1, and all the entries against it in columns 2, 3, 4 and 5, the following be substituted, namely:—

1	2	3	4	5
Nowrangpur	Nowrangpur sub-division, and the Padua, Pottangi, Simliguda and Nandapur police stations of of Koraput sub-division.	1	...	...

2. That at page 1, in Table A—Parliamentary Constituencies, for the entry "Kayagada-Phulbani" in column 1, and all the entries against it in columns 2, 3, 4, and 5, the following be substituted, namely:—

1	2	3	4	5
Rayagada-Phulbani	The entire Rayagada sub-division and the police station of Kora-put, Dashmantpur, Laxmipur and Narayanapatna of Koraput sub-division as also the district of Phulbani except police stations of Manmunda and Bondh.	1	...	...

3. That at page 1, in Table B—Assembly Constituencies, for the entry "Nowrangpur" in column 1, and all the entries against it in columns 2, 3, 4, and 5, the following be substituted, namely:—

1	2	3	4	5
Nowrangpur	Police stations of Nowrangpur Kodinga, Moidalpur, Dabugaon, Omerkot and Jharigaon.	2	...	...1

4. That at page 1, in Table B—Assembly Constituencies, for the entry "Omerkot-Moidalpur" in column 1, and all the entries against it in columns 2, 3, 4, and 5, the following be substituted, namely:—

1	2	3	4	5
Jeypur	Police stations of Jeypur, Kotpad Borigumma, B. Singhpur and Tonulikhunti.	2	1	...

The motion was adopted.

Mr. Deputy Speaker: So the President's order stands modified by these amendments.

Several hon. Members: It is time to adjourn, Sir.

Shri Kamath : Before the House adjourns may I bring to your notice the understanding arrived at about the question list for the 2nd, which had been postponed to the 9th. I trust that arrangement stands and that list will be taken up tomorrow.

Mr. Deputy Speaker: That will stand.

Will the Law Minister indicate the order in which he is going to take these delimitation orders ?

Dr. Ambedkar: I do not think the House will complain that they were taken by surprise, if sometimes I take some orders out of turn. All of them have been before them.

Mr. Deputy Speaker: All the orders will be completed tomorrow.

The House then adjourned till Half Past Eight of the Clock on Saturday, the 9th June 1951.

***Shri P. G. Sen :** .....There is one inter-district constituency known by the name of Darbhanga-*cum*-Bhagalpur, *vide* Delimitation Order, page 3. In page 4 there is another constituency as Purnea-*cum*-Bhagaipur.

Mr. Speaker: Order, order, hon. Members may carry on their consultations elsewhere and not disturb the House.

Shri P. G. Sen: My point in moving the motion is that the common ground is Bhagalpur. It can be amalgamated either this way or that. The question of amalgamation and the formation of the constituency is the question which I want to raise.....

Dr. Ambedkar: I have understood the point and I can reply to it in one sentence.

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* P. D., Vol. 13, Part II, 9th June 1951, pp. 10518-19.

Shri P. G. Sen: Yes, Dr. Ambedkar can answer in a word or in a sentence.

Mr. Speaker: Order, order. The hon. Member will address the Chair.

Shri P. G. Sen: Certainly Dr. Ambedkar is a better orator than myself.

In bringing this motion before the House the question that arose in my mind was: am I doing injustice to Bhagalpur, or am I doing injustice to Darbhanga, or to Purnea ? Not at all. The river Kosi divides the two districts of Bhagalpur and Purnea, and sufficient public money has been spent in undertaking aerial flights over this area ..... Just imagine the state of those flood-devastated Kosi area for which this House has on more than on occasion been pressing to hurry up with the construction of the Kosi Project.

Dr. Ambedkar: This is becoming an irrigation department event.

Shri P. G. Sen: Another point I wish to submit is that I wish to amalgamate the entire area of Bhagalpur with Darbhanga and make it a plural constituency with reservation for a scheduled caste seat. The scheduled caste voters in Darbhanga are nearly 2,50,000 and Bhagalpur portion of Purnea-cum-Bhagalpur constituency has 71,000 voters (Scheduled Caste) so if that entire area of Bhagalpur in Purnea-cum-Bhagalpur Constituency is amalgamated with this Darbhananga-*cum*-Bhagalpur area a plural-member constituency can be formed. It would not be out of place to mention here that there is a topographical error in amendment No. 1 of Supplementary List No. 2 where in column 3 it is shown as "2" whereas in column 4 it is shown as nil; in column 4 "1" should be inserted.

*** Shri P. G. Sen:** May I submit to you Sir, that this is the only House where one can demand some justice done ?

* P. D., Vol. 13, Part II, 9th June 1951, p. 10521.

Mr. Speaker: Order, order, I may tell the hon. Member that the House will certainly do justice, but to have what one wants is not necessarily justice—though it may be so from one's own point of view, he has to leave it to the good sense of other people also who have no interest in doing injustice to anyone.

Dr. Ambedkar: There is only one point that I would like to mention in connection with the motion made by my friend, and it is this that the constituency that he proposes will have a total number of electors of 4,43,524 as against the maximum limit of 3,87,929. That objection itself is fatal to his proposal.

Shri P. G. Sen: But it is a plural-member constituency.

Dr. Ambedkar: So that is fatal to his proposal.

Mr. Speaker: So I am going to put the motion of Shri P. G. Sen to vote. (No. 1 in Supplementary List No. 2— Bihar Order). The question is :

[For text of the motion *see* Amendment No. 1 S. L. 2 printed in Appendix XXXIII, Annexure 1.]

The motion was negatived.

Dr. Ambedkar: Amendment No. 3 part 3 in Supplementary List No. 6, that is the amendment of Shri Jajware as modified by the amendment of Shri S. N. Das.

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* **Mr. Speaker:** Now, I would like the House, at the end of the motions relating to each province, to pass a sort of a motion to the effect that consequential amendments in respect of the order relating to that particular State may be made under the authority of the Speaker, so that the draftsman and the Department will examine all these and set them right. The amendments will be strictly consequential and not substantial.

Dr. Ambedkar: For that purpose I shall be moving a separate amendment conferring upon you the power to permit

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* P. D., Vol. 13, Part II, 9th June 1951, pp. 10528-32.

the draftsman, in consultation with you, to make certain consequental amendments.

Mr. Speaker: So we shall do it by one comprehensive motion at the end of the orders.

As regards the other motions I take it that hon. Members who have moved them will have the leave of the House to withdraw them.

The amendments were, by leave withdrawn.

Bombay Order

Dr. Ambedkar: Sir, I am prepared to accept the following amendments :

Supplementary List No. 1, Amendments No. 1 to 8 of Shri Shankar Rao Deo and others.

They are purely consequential amendments.

List No. 2, Amendment No. 2 of Shri Nijalingappa and Shri Munavalli; subject to the modification that in the entry against South Satara for "Item (15)" the words "Item (57)" be substituted.

Then I propose to accept:

In List No. 3, amendment No. 3, parts (1) and (2) by Shri Deogirikar and Shri Kumbhar.

In List No. 6, amendments Nos. 1 and 2, subject to the modification that against the entry Kolhapur-cum-Satara the words "The whole" at the beginning of the entry in column 2 are to be omitted.

In List No. 7, amendment No. 2, part 2, by Shri Hiray and Shri Deogirikar.

Then in List No. 8, I propose to withdraw amendments Nos. 1, 2 and 4 because they have already been covered by amendment No. 2 of List No. 6.

Then I propose to accept:

In List No. 8, amendments nos. 3 and 5 to 11.

In amendment No. 11, page 11, under item (64) for "Mahagond" substitute "Mamewadi"—which is a verbal change being a change of name—and "Gajargaon" at the end.

Then I accept:

In List No. 10, amendments 1, 2 and 3 by Shri Nijalingappa.

Mr. Speaker: In the list that he has given only 2 and 3 are mentioned.

Dr. Ambedkar: It was a mistake. I am accepting 1, 2 and 3.

Shri Kumbhar (Bombay)**:** The amendment in list No. 6 is in my name. But my name is droppd.

Mr. Speaker: The name is there and the motion has already been made. Nothing further has to be done in respect of it now except the voting. Let him not worry about his name. We will see that it is properly put in.

Shri Kumbhar: There is another one excluding Kagal Taluk.

Dr. Ambedkar: Sir, those are changes which could be done by the draftsman on your authority.

Mr. Speaker: If they are consequential amendments. If we accept the substance they will be made.

Shri Bhatt: *rose—*

Dr. Ambedkar : My friend, I know, Sir, is particular about the mentioning of Santa Cruz' and so on. I have told him that those amendments will be made on your authority by the draftsman under the resolution I am proposing at the end.

Mr. Speaker: As regards the details of mentioning Santa Cruz or this road or excluding Kagal or bringing it in, let all the proposals by the hon. Members be made to the draftsman and let them discuss with him. He will consider them and, if necessary, I will pass orders.

Dr. Ambedkar: That is what I propose to ask.

Shri Bhatt: That is what I wanted to ask, whether changes in names would be made by your orders.

Dr. Ambedkar: As I said, I am going to move a motion. The substance of the motion will be that you will be empowered to instruct the draftsman to make certain changes of a purely formal character. When the House passes the motion the Speaker will have the necessary power to do the needful.

Mr. Speaker: This difficulty arises because some of the Members are not present from time to time and therefore they

miss the whole thing. Is there any other member wishing to move any other amendment ?

Shri Hiray (Bombay)**:** Yes, Sir.

Mr. Speaker: In addition to what the Law Minister is accepting ?

Shri Hiray: Yes.

Dr. Ambedkar: What has happened on account of the decision relating to Dangs is that one more seat has been added to Maharashtra and that seat belongs to the Tribal people. Therefore a seat has to be provided in the constituencies that have been delimited so far as Maharashtra is concerned. This is the proposal which stands in the name of Mr. Hiray. Either he may move it or I may move it.

Mr. Speaker: It is better if the Hon. Minister moves it.

Dr. Ambedkar: I beg to move:

> In Table B, page 8, Nasik District, in column I, *for* the words "Nasik urban" and "Nasik rural *cum* Igatpuri", *substitute* the words "Nashik Igatpuri "and against the same constituencies.—
>
> (1) In column 2, *omit* all the words beginning with "Nasik Municipal" and ending with "Iatpuri Municipal area" and *substitute* "Nasik and Igatpuri Talukas including all Municipalities therein".
>
> (2) In columns 3, 4, 5 *omit* the figurs given therein and *substitute* 3, 1, 1 instead respectively.

Shri Kanhayala Desai (Bombay)**:** There is a consequential amendment relating to Pardi. One scheduled tribe seat which is at present in Pardi Taluka should be removed and it should become a general seat.

Dr. Ambedkar: That becomes consequential. That you can do, Sir.

Mr. Speaker: Let it go on record that a specific point was raised.

*** Mr. Speaker :** The amendment of Dr. Ambedkar about Dangs. (as mentioned above).

The motion was adopted.

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* P. D., Vol. 13, Part II, 9th June 1951, pp. 10534-35.

Shri Hiray : There is my consequential amendment in List No. 11.

Mr. Speaker: That is with reference to having one seat from Maharashtra. That is purely consequential and we will accept it as such.

The Hon. Law Minister wishes to have the leave of the House to withdraw amendments Nos. 1, 2 and 4 in List No. 8 and all the other hon. Members wish to have the leave of the House to withdraw the various amendments and motions standing in their names.

The amendments were by leave withdrawn.

[Mr. Deputy Speaker in the Chair]

Madhya Pradesh Order

Dr. Ambedkar: The amendments I am prepared to accept are these:

List No. 1.—Amendments Nos. 6 and 8 in the name of Kishorimohan Tripathi and others.

List No. 2.—Amendment No. 1, parts 1 to 5 of Dr. P. S. Deshmukh and others together with two consequential amendments to be moved by Dr. Deshmukh.

List No. 3.—Amendment No. 2 in the name of Shri Kishormohan Tripathi and others together with a consequential amendment to be moved by Shri Tripathi. (Amendment No. 2 is to be slightly modified so as to read "Khamaria R.I.C. of Khamaria Tehsil)" for "Khamaria Tehsil".

List No. 6.—Amendment Nos. 1 to 5.

*** Shri Jangde:** Sir, I want to withdraw my amendments.

Mr. Deputy Speaker: I will later ask leave of the House for the withdrawal. I will now put amendments No. 1 to 5 in list No. 6. Have they any consequential amendments ?

Dr. Ambedkar: There, are no amendments to these amendments Nos. 1 to 5.

Mr. Deputy Speaker: The question is:

[For text of the motions *see* Dr. Ambedkars amendments Nos. 1 to 5 in List No. 6 printed in Appendix XXXIII, annexure No. 3.]

The motion was adopted.

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* P. D. Vol. 13, Part II, 9th June 1950, p. 10541.

***Dr. Deshmukh:** I have to move my amendments.

Mr. Deputy Speaker: Yes, That is with reference to amendment No. 1 in List No. 2.

Dr. Ambedkar: There are amendments to his amendments Nos. 1 to 5 of List 2.

****Mr. Deputy Speaker:** To this extent the President's Order stands modified. Leave may be granted to all the Members to withdraw their amendments. All the other amendments moved by other hon. Members were, by leave withdrawn.

Mr. Deputy Speaker: The Madhya Pradesh Order is over.

Dr. Ambedkar: There are other friends who are pressing me that their matter may be taken up first, that is West Bengal and Hyderabad.

Mr. Deputy Speaker: I am taking up Madras.

MADRAS ORDER

Dr. Ambedkar: With regard to the Madras Order, I am prepared to accept the following amendments:—

List No. 4.— Amendmnt No. 1, part 3, second alternative, and part 4, of Shri Kala Venkatarao.

Amendment No. 2, parts 1 and 2, of Shri Keshava Rao.

List No. 6.— Amendment No. 1, Parts 1 and 2, of Shri Sanjivaya, subject to the recast of part 2 as follows :

"That for all the entries against "Erode" in columns 2, 3, 4 and 5 the following be substituted :

1	2	3	4	5
Erode ...	Erode taluk, Bhavani taluk, Dhara-puram taluk [excluding such of the villages of Kundadam Firka as are specified in item No. (19) of the Appendix] and Kugalur Firka and such of the villages of Gobichetti-palayam Firka of Gobichettipala-yam taluk of Coimbatore district as are specifed in item No. (18) of the Appendix ; and Karur taluk Kattalai, Kulithalai and Panjarpatti Firkas of Kulithalai taluk of Tiruchirapalli district.	2	1	...

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* P. D. Vol. 13, Part II, 9th June 1950, p. 10543.

** *Ibid.,* pp. 10545-47.

List No. 11.— Amendment No. 2, parts 1 to 3, by Shri Kodandarama Reddy and others.

List No. 12. —Amendments Nos. 1 to 13, subject to amendment No. 6 being modified by Hon. Minister of Law as follows;—

That for all the entries against "Tiruppur" in volumns 2, 3, 4 and 5the follwoing be substituted : —

1	2	3	4	5
Tiruppur	The Kollegal, Gobichettipalayam and Tiruppur taluks and Savur and Avanashi firkas of Avanashi taluk (excluding the Kugalur firka and such of the villages of Gobichettipalayam firka of the Gopichetti-palayam taluk as are specified in item No. (18) of the Appendix and the the Varapatti firka of Tiruppur taluk) of the Coimbatore District.	1	...	...

I beg to move:

(i) At page 4 in Table A.—Parliamentary Constituencies, against the entry 'Dharmapuri "for the words "and Edappadi firka of Tiruchengoda taluka of Salem District" substitute the words "and Edappadi firka and such of the villages of Sankagiri firka of Tiruchengode taluk of Salem District as are specified in item 18A of the Appendix".

(ii) At page 4, in Table A.—Parliamentary Constituencies, against the entry "Tiruchengoda" for the words "(excluding Edappadi firka of Tiruchengoda taluk)" substitute the words "(excluding Edappadi firka and such of the villages of Sankagiri firka of Tiruchengode taluk as are specified in item 18A of the Appendix)".

(iii) At page 11 in Table B.—Assembly Constituencies, against the entry "Tiruchengode", for the entry in column 2, substitute the following:

"Tiruchengode taluk (excluding Edappadi firka and such of the villages of Sankagiri firka and of the Tiruchengode firka as are specified in items (18A) and (16) respectively of the Appendix)".

(iv) At page 11 in Table B.—Assembly Constituencis, against the entry "Edappadi", for the entry in column 2, substitut the following:".

Edappadi firka and such of the villages of Sankagiri firka of Tiruchengode taluk as are specified in item (18A) of the Appendix and the Mettur and Nangavalli firkas of Amalur taluk".

11-00 A.M.

Sir, I want to move all the amendments in List No. 10. They are only a corrigenda.

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* **Shri A. Joseph:** .....In the interest of the organisation to which I belong and in the interest of the Government I appeal to the House to provide plural member constituencies with distributive voting without reservation. If the Law Ministr is not in a position to agree then I oppose his motion and I would ask you to record *my* disagreement with the proposal for single member constituencies without giving any facilities for th minorities.

Dr. Ambedkar: I cannot accept the amendments.

Mr. Deputy Speaker: Were similar plural member constituencies created in the U.P. ?

Dr. Ambedkar: No, Sir. Nowhere has an exception been made.

WEST BENGAL ORDERS

****Dr. Ambedkar:** With regard to the West Bengal Order, I am prepared to accept the following amendments:

Consolidated List No. 2—Parts 1 to 6 of Shri Samanta and Shri B. K. Das.

Supplementary List No. 1: Amendment No. 1—Parts 1 and 2 and Amendment No. 2—Parts 1 to 8 of Shri Himatsingka and Mr. Haq, as modified by Supplementary List No. 5, Amendments 1 to 4 of Shri Jhunjhunwala and Shri Sinha.)

I withdraw amendments Nos. 4 and 12 to 15 from the Supplementary List No. 3. The rest of them I move.

Shri Chattopadhyay (West Bengal)**:** I would like to move the amendment appearing in Supplementary List No. 2, It covers 108 items, of which I do not want to press item No. 30.

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*P. D., Vol. 13, Part II, 9th June 1951, p.10548.

** *Ibid.,* p. 10554.

***Dr. Ambedkar:** If I may say a word, in view of the fact that there is such a keen difference of opinion, I am prepared to suggest that it may be left to the Speaker to treat this matter as a sort of a nomenclature matter, without touching the substance. This matter may be kept open. Those Members who care may approach the Speaker and convince him that this is a matter of nomenclature and formally they may be put in without in any way disturbing the areas that are included in the particular constituencies.

Pandit Maitra: I am afraid we cannot agree to this because if one single member is keen on having a change in the nomenclature, another Member may suggest another thing and

Shri Chattopadhayay: Why are you afraid ?

Dr, M M. Das: That would be inconvenient.

Shri J. R. Kapoor (Uttar Pradesh)**:** The point raised by Mr. Chattopadhyay is appealing to most of us. We do not want that at this late stage there should be any substantial change. The changes that he suggests could easily be made in the manner suggested by the Law Minister and an overwhelming majority of the House will, I should say, support that.

Shri S. M. Ghose (West Bengal)**:** How could this Order be finalised by the Speaker ? My hon. friend has suggested some nomenclature. Other Members may suggest some other names. There will be no end to that.

Mr. Deputy Speaker: The Hon. Speaker has to be here. He has to invite other Members together and ascertain from them what their wishes are. What about the Order ? Are we to say that the Order has to be modified to that extent or not ? Nomenclature is a part of the Order, it is not something like the marginal notes. I think there will be some difficulty in the matter. I leave it to the House.

Shri Chattopadhayay: With a heavy heart, Sir, I am forced to withdraw them.

The amendments were, by leave, withdrawn.

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*P. D., Vol. 13, Part II, 9th June 1951, pp.15568-77.

Mr. Deputy Speaker: Now, I shall put the amendments of Dr. Ambadkar in Supplementary List No. 3. the question is:

(For text of the motions *see* amendments Nos. 1 to 3, 5 to 11 and 16 to 19 in Supplementary List No. 3 as printed in Appendix XXXIII annexure 1).

The motion was adopted.

Mr. Deputy Speaker: The other hon. Members desire to withdraw their amendments.

All the other amendments were, by leave, withdrawn.

12-00 Noon.

Mr. Deputy Speaker: The President's Order regarding West Bengal stands modified to the extent of the amendments moved and accepted in the House.

HYDERABAD ORDER

Dr. Ambedkar: I am prepared to accept the following amendments.

Consolidated List. Amendment No. 1 parts 1 and 5 by Shri Ramachar others.

Amendment No. 2, parts 1 to 6, parts 10 to 12 and parts 15 and 16, by Shri Ramachar and others.

Amendment No. 3 parts 1 and 2 by Shri Ramachar and others.

The motion was adopted.

Mr. Deputy Speaker: The President's Order regarding Hyderabad stands modified to the extent of the amendments moved and accepted in the House. The other Members desire to withdraw their amendments.

All the other amendments were, by leave, withdrawn.

MADHYA BHARAT ORDER

Dr. Ambedkar: I accept amendments Nos. 1, 2, 3, 6, 7, 9 and 11 in List No. 3 by Shri Radhelal Vyas. Also in List No. 1, Appendix I.

Mr. Deputy Speaker: The question is:

[For text of the motions *see* Amendments Nos. 1, 2, 3, 6, 7, 9 and 11 in List No. 3 printed in Appendix XXXIIII, annexure 2.]

The motions were adopted.

Mr. Deputy Speaker: The question is :

[For text of the motion *see* List 1, Appendix I (as modified by the previous amendments in List No. 3 printed in Appendix XXXIII, annexures 1 and *2.)*

The motion was adopted.

MYSORE ORDER

Dr. Ambedkar : I accept amendments Nos. 1 and 2 in List No. 1 by Shri Rudrappa.

Mr. Deputy Spaker: The question is:

[For text of the motion *see* Amendments Nos. 1 and 2 in List No. 1 printed in Appendix XXXIII, annexure 3.].

The motion was adopted.

Mr. Deputy speaker: All the other amendments are desired to be withdrawn.

The amendments were, by leave, withdrawn.

Mr. Deputy Speaker: The President's Order regarding Mysore stands modified to the extent of these amendments now accepted.

Then the Punjab Order?

Dr. Ambedkar: No, Sir, The Punjab Order will have to be kept back for some time now. We may take up the P.E.P.S.U. Order.

P.E.P.S.U. ORDER

Dr. Ambedkar: I accept amendment I, parts 2 and 3 of Sardar Sochet Singh in the Consolidated List and also amendment No. 1 of Sardar Ranjit Singh as amended by amendments Nos. (i) and (ii) of Supplementary List No. 3 by Sardar Man.

Mr. Deputy Speaker: Let us take them in order and finish first the Consolidated List.

Dr. Ambedkar: All right. I accept parts 2 and 3 of amendment No. 1 of Sardar Sochet Singh and others.

Mr. Deputy Speaker: The question is:

[For text of the motion *see* Consolidated List, Amendment No 1, parts 2 and 3 printed in appendix XXXIII, Annexure I.].

The motion was adopted.

Dr. Ambedkar: I accept, in Supplementary List 2, amendment No. 1 of Sardar Ranjit Singh, as amended by amendment No. 1, parts (i) and (ii) in Supplementary List 3 by Sardar Man.

So the amendment in Supplementary List 3 may be put first.

The motion was adopted.

Mr. Deputy Speaker: The President's Order regarding P.E.P.S.U. stands modified to the extent of the amendments now adopted.

Rajasthan Order

Dr. Ambedkar: I accept amendment No. 1, parts 1 to 5 in the name of Shri R. C. Upadhyaya in Consolidated List as modified by amendment No. 1 of Shri Ghule in Supplementary List No. 4.

Mr. Deputy Speaker: The question is. (For text of the motion, see Amendment No. 1 by Shri Ghule in S. L. No. 4).

The motion was adopted.

***Dr. Ambedkar:** I accept the amendments in the name of Shri R. C. Upadhyaya and others, Parts 1 to 19 on pages 2 to 5 of C.L.

Mr. Deputy Speaker: The question is:

[For text of the motion *see* amendment 3, parts 1 to 19, C.L. printed in Appendix XXXIII, annexure 1.]

The motion was adopted.

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* P.D., Vol. 13, Part II, 9th June 1951, p. 10574.

Dr. Ambedkar: Amendment No. 1 of Supplementary List No. 2 and also No. 2 of S.L. No. 2, as modified by amendment No. 2 in Supplementary List No. 4, standing in my name may be accepted.

***Dr. Ambedkar:** I accept amendments Nos. 1 to 3 of Supplmentary List No. 5 by Shri R. C. Upadhyaya.

The motion was adopted.

The other amendments were, by leave of the House, withdrawn.

SAURASHTRA ORDER

Dr. Ambedkar: I accept amendments Nos. 1 and 2 of List No. 1 by Mr. C. C. Shah and Shri Hathi.

Mr. Deputy Speaker: To the extent of these amendments the Saurashtra Order of the President stands modified.

There is no other amendment.

Dr. Ambedkar: As regards the Travancore and Cochin Order there is no amendment. A corrigenda has been issued.

Shri R. Velayudhan (Travancore-Cochin)**:** There were some discrepancies in printing.

Shri Lakshmanan (Travancore-Cochin)**:** They have all been covered by the corrigenda.

PART C STATES ORDER: DELHI

Dr. Ambedkar: I accept amendment No. 2 in consolidated List (in the name of Shri Kesava Rao and others).

The motion was adopted.

Mr. Deputy Speaker: There are no other amendments, I suppose. The President's Order relating to Part C States stands modified to the extent of the amendment just new carried. Other amendments by Dr. Ambedkar and others, if any, are to be withdrawn by the leave of the House.

The other amendments were, by leave, withdrawn.

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*P.D., Vol. 13, Part II, 8th June 1951, pp. 10597-607.

Dr. Ambedkar: Only two other provinces remain, namely U.P. and Punjab. Several amendments have come just now and I have not had time to apply mind to them. If the parties concerned are prepared to go by the original arrangements then I am prepared to proceed further. But I find that some changes have been introduced and I must have a clear understanding of what is sought to be done. I personally think that half an hour in the afternoon would be more than enough for both the Provinces.

Shri Shiv Charan Lai: There might be difficulty then with regard to the quorum, because Members of other States may be absent from the House.

Mr. Deputy Speaker: Only two more orders relating to U.P. and the Punjab are outstanding. If there is unanimity in the House we can meet as late as possible, for I do not want to give the impression that I have muzzled them if anybody wants to speak.

Shri Amolakh Chand: Can we not adjourn for half an hour and then continue for the simple reason that at 4-30 p.m. Members may not come?

Mr. Deputy Speaker: The Minister must have sufficient time to consider the amendments.

Shri T. T. Krishnamachari (Madras)**:** Is there no other business ?

Mr. Deputy Speaker: No other business except passing these two orders.

The House then adjourned till Half Past Four of the Clock.

The House re-assembled at Half Past Four of the clock

[Mr. Speaker *in the Chair*]

Punjab Order

Mr. Speaker: We will now proceed with the Punjab Order. May I know the Nos. of the agreed amendments ? I think we will follow the same procedure as in the morning.

Dr. Ambedkar: The agreed amendments are as follows :

List 7.—Amendment No. 2, part 5, sub-part (i) and sub-part (ii) of Shri B. L. Sondhi, Chaudhari Ranbir Singh and others.

List 9.—Amendment No. 6, parts 2 and 3, of Prof. Yashwant Rai.

List 10.—Only the first amendment in the list I move.

I do not move the second and the third amendments as these are superseded by amendments Nos. 5(i) of List 7 and 3(6) of List 12.

List 12.—Amendment No. 1, parts 1 and 2, of Shri B. L. Sondhi, Ch. Ranbir Singh and others.

Amendment No. 2 of Sardar Bhopinder Singh Man and others, as modified by amendment in List No. 13, of Ch. Ranbir Singh and others.

Amendment No. 3, parts 4, 5 and 6 (second part) of Shri Sondhi, Ch. Ranbir Singh and others, with minor consequential changes in part 6 (second part) as follows:

6. That at page 6, in Table B.— Assembly Constituencies, for the entries 'Ludhiana Sadar', 'Jagraon' and 'Raikot' in column 1 and all the entries occurring against them in columns 2, 3 and 4, the following be substituted, namely:—

1	2	3	4
Jagraon ...	Jagraon Tehsil	2	1
Ludhiana Sadar	Nurpur Bet, Baddowal, Dhandra, Lalton, Kalan, Gill and Dhandari Kalan Zails of Ludhiana Sadar thana, and Shankar and Han Zails of Delhon thana and Dakha Zail of Dakha thana of Ludhiana Tehsil.	1	...
Delhon ...	Pakhowal and Andlu Zails of Raikot thana and Delhon thana (excluding Shankar and Hans Zails) of Ludhiana Tehsil.	1	...

Amendment No. 4, parts 1 and 2, of Pandit Thakur Das Bhargava and Chaudhari Ranbir Singh.

These are the amendments I am prepared to accept, Sir.

Mr. Speaker : I take it no other hon. Member wishes me to put any of his motion to the House.

Well, then I shall dispose of these amendments first. The question is :

[For text of the motion *see*)

List 7—Amendment Nos 2, part, 5, sub-part (i) and sub-part (ii), of Shri B. L. Sondhi, Chaudhari Ranbir Singh and others.

List 9—Amendment No. 6, parts 2 and 3, of Prof. Yashwant Rai.

List 10— Only the first amendment in the list.

List 12—Amendment No. 1, parts 1 and 2, of Shri B. L. Sondhi, Ch. . Ranbir Singh and others.

Amendment No. 2 of Sardar Bhopinder Singh Man and others, as modified by amendment in List No. 13, of Ch. Ranbir Singh and others.

Amendment No. 3, parts 4, 5 and 6 (second part) of Shri Sondhi and others, with minor consequential changes in part 6 (second part) as follows:

6. At page 6, in Table B.—Assembly Constituencies, for the entries 'Ludhiana Sadar', 'Jagraon' and 'Raikot' in column 1, and all the entries occurring against them in columns 2, 3 and 4, substitute the following :—

1	2	3	4
Jagraon ...	Jagraon Tehsil	2	1
Ludhiana Sadar	Nurpur Bet, Baddowal, Dhandra, Lalton, Kalan, Gill and Dhandari Kalan Zails of Ludhiana Sadar thana, and Shankar and Han Zails of Delhon thana and Dakha Zail of Dakha thana of Ludhiana Tehsil.	1	...
Delhon ...	Pakhowal and Andlu Zails of Raikot thana and Delhon thana (excluding Shankar and Hans Zails) of Ludhiana Tehsil.	1	...

printed in appendix XXXIII, annexures 3, 4].

The motions were adopted.

Mr. Speaker: To this extent the President's Order is modified.

Now leave is asked for to withdraw amendments Nos. 2 and 3 in List No. 10 and all the other motions that have been moved.

The amendments were, by leave, withdrawn.

Ch. Ranbir Singh: There is a clerical error here, Sir.

Mr. Speaker: As I have pointed out, all technical errors and apparent mistakes may be brought to the attention of the Hon. Minister of Law and they will be put through as consequential amendments.

Now, let us go to the U.P. Order.

UTTAR PRADESH ORDER.

Dr. Ambedkar: Sir, the agreed amendments are as follows:

List 1—Amendment No. 1 of Pandit Shiv Charan Lai.

List 7— Amendment No. 2, parts 1, *2,* 3, 4, 5 and 6, of Shri C. D. Pande.

Amendment No, 5 of Shri Sohan Lai and others subject to substitution of "Basti District (Central East)-cum - Gorakhpur District East" for "Basti District (Central East)-cum -Hasanpur Pargana", in col. 1.

Amendment No. 6, part 2, of Shri Satish Chandra.

Amendment No. 9 of Babu Gopinath Singh and Pandit Balkrishna Sharma, subject to the insertion of "I.A.F. Domestic Camp" after "Chakeri Aerodrome" in the entry in col. 2 against Kanpur (East).

List 8—Amendment No. 4, parts 1 and 2, of Shri K. C. Sharma.

Amendment No. 5 of Shri Beni Singh and others.

Amendment No. 7, parts 1 to 4, of Shri Amolakh Chand.

Amendments Nos. 8 and 10 of Shri Beni Singh and others.

Amendment No. 12, parts 1 and 2, of Shri K. C. Sharma.

Amendment No. 14 of Shri T. N. Singh.

List 9—Amendments Nos. 1, 4, 5 and 6.

Amendments Nos. 2, 7 and 8 subject to the following modifications proposed by me :

That in the motions in List No. 9 (Uttar Pradesh Order) standing in my name the following amendments be made :—

1. That in motion No. 2, at page 3 of the List, against the entry "Allahabad District (East)-*cum*-Jaunpur District (West)" for the words "(excluding the Municipality and Cantonment of Allahabad" in column III, the words "Chail tehsil (excluding the Municipality) and cantonment of Allahabad" be substituted.

2. That in motion No. 2, at page 3 of the List, after the entry "Allahabad District (West)" the following entry be inserted :—

I	II	III
Gorakhpur District (Central).	such of the Patwari circles of Haveli pargana of Pharenda tehsil of Gorakhpur District as are specified in item (94) of the Appendix.	such of the Patwari circle and forest areas of Haveli Pargana of Pharenda tahsil of Gorakhpur district as are specified in item (94) of the Appendix.

3. That in motion No. 8, at page 12 of the List, for items Nos. (38) and (39) of the proposed Appendix, the following items be substituted :—

"Patwari circles of Akbarpur Tehsil

(38)

Singhpur Saholi, Nevada Deorani, Jaitpur Sheoli, Hiraman Sheoli, Dhakan Sheoli, Saraiyan, Baridaryao, Baghpur, Sobhan, Baghwat, Nehuta, Rastpur, Kakar, Dahi, Bairisawai, Marag, Rampur, Sheoli, Kandri, Bhewan, Nunari Bahadurpur, Baragaon, Baranpur Kahinjari, Kashipur Deepchand, Kashipur Hiraman, Kashipur Jagamman Shah, Kashipur Bhurshah, Hatika, Manda, Kekarmau, Naubasta, Bhaupur, Pitrapur, Ant, Raipalpur, Baluwapur, Lalpur and Aliapur.

Patwari circles of Derapur Tehsil

(39)

Nandpur, Sargaon Khurd, Mungisapur, Derapur Khas, Salimpur, Sabdalpur, Kurhawal, Maujpur, Agwasi, Ursan, Padnai, Korawa, Amauli Kurmian, Hathuma, Mukbilpur, Daryapur, Netarah, Garhiya Sikandra, Mohammadpur : Sultanpur, Jagannathpur, Sandalpur, Haswan, Jamaura, Revan, Hawaspur, Ankna, Pendarathu, Sahnipur, Chamrawa, Kasolar, Achhrauli, Dharampur, Indrukh, Sargaon Buzurg, Jignis, Galuwapur and Baragaon Bhikhi."

4. That in motion No. 2, at page 1 of the List, the entries relating to "Almora District (West)-*cum*-Garhwal District (East)" be deleted.

5. That in motion No. 2, At page 2, the following be deleted.

(i) The entries relating to "Kanpur District (North)-cum-Farrukhabad District (South-East)-*cum*-Tehsil Etawah District (East)" to the two places where they occur.

(ii) The entries relating to "Etawah District (West)".

(iii) The entries relating to "Kanpur District (South)"

6. That in motion No. 7, at page 6 of the List, the entries relating to "Kanpur City (South)", "Kanpur (Central)", "Ghatampur (West)-*cum*-Bhognipur (East) "and "Bhognipur (South-East)-cum-Akbarpur (South) "be deleted.

7. That in motion No. 8, in the Appendix, item No. 17-A relating to Patwari circles of Meerut. Pargana be omitted.

I withdraw amendment No. 3 in List No. 9.

Amendment No. 3 in List No. 9 was, by leave, withdrawn.

Mr. Speaker: So I am taking all of them together. Do the hon. Members wish to take any one of them independently ? If that is so I have no objecrion.

Pandit Kunzru (Uttar Pradesh): I want to know what is the principle on which all these amendments have been accepted. I find that one of the amendments has been tabled by a member of the Committee, Shri T. N. Singh. I would, in particular like to know what that amendment is.

Dr. Ambedkar: Those amendments on which there was general agreement were accepted. In regard to the particular amendment referred to by the hon. Member it is No. 14 in list No. 8.

Pandit Kunzru : My Hon. friend Dr. Ambedkar says that those amendments have been accepted about which there was general agreement. I do not know what he means by "general agreement". If he meant among the members of the majority party, obviously there could have been agreement on many other points. If that was the only basis on which the modifications

were to be made, there was no need for the appointment of a Delimitation Advisory Committee. But I should like to know whether apart from the fact that there was agreement on those points, there was any other reason for their acceptance.

Dr. Ambedkar: Well, I think the Hon. House knows that we have been proceeding upon the basis of the decision of Members of the various Committees which were appointed by the Speaker to delimit the constituencies and whenever the Members have agreed to make a change, I have thought it fit to accept that change. No. 14 which I am accepting is one such amendment.

Pandit Kunzru: Does he mean Members of the majority party or does he mean the Members of the Committee appointed by the Speaker ?

Dr. Ambedkar : With regard to that, I should like to point out that so far as delimitation is concerned, no distinction has been observed between Members of the majority party and Members of any other party. All Members have been invited to place their views before this Cabinet Sub-Committee which was appointed to examine this matter. Any Member, irrespective of the party to which he belonged, had the freedom to come and plead his cause. Some Members did come.

Shri T. N. Singh (Uttar Pradesh)**:** Sir, as my name has been brought in I would ask your permission to say a few words. It is only this that the amendment to which my hon. friend referred is only a consequential amendment which should have been made and which by error was not made in the report of the Committee. I can explain the details personally to him, as it is not possible to explain it here.

Mr. Speaker: Does any other Member wish to take up his motion independently?

*** Dr. Ambedkar:** Sir, I hope this matter was discussed in the committee and I told Mr. Kapoor that his amendment was incomplete and therefore could not be accepted without

* P.D., Vol. 12, Part II, 9th June 1951, p. 10607.

causing disturbance to other constituencies. He was not able to give a complete scheme where the thing would be fitted in with the rest. That is the reason why this amendment was not considered.

Shri J. R. Kapoor: *rose—*

Mr. Speaker: The hon. Member has no right of reply. Dies he wish me to put these to the House now ?

Shri J R. Kapoor: Of course, though it may be rejected.

Mr. Speaker: I shall place them before the House.

Shri J. R. Kapoor: No. Sir, I would like to withdraw them.

The amendments of Shri J. R. Kapoor were, by leave, withdrawn.

Mr. Speaker: I will now put all the agreed amendments which the Law Minister has placed.

All amendments were adopted.

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* **Mr. Speaker:** Has the Hon. Member, as also the other hon. Members who have moved amendments, the leave of the House to withdraw their amendments ?

The amendments were, by leave, withdrawn.

Mr. Speaker: That disposes of all the motions. Now I shall take up consequential amendments.

Dr. Ambedkar: I beg to move:

> "That with reference to the amendments to the Delimitation of Parliamentary and Assembly Constituencies Orders moved and accepted by the House necessary consequential, drafting and other formal changes be carried out in the said Orders under the authority of the Honourable the Speaker."

Dr. Deshmukh: I have given notice of a similar amendment. I beg to withdraw it.

Mr. Speaker: It has not been placed before the House. So there is no need to withdraw it.

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*P.D., Vol. 12, Part II, 9th June 1951, pp. 10610-12.

Shri Chattopadhyay: I have an amendment to this amendment. I beg to move:

> In the Consequential Amendment standing in the name of Dr. Ambedkar, after the words "formal changes", insert the words "including nomenclature of Constituencies".

Mr, Speaker: Does the Hon. Minister accept it ?

Dr. Ambedkar: I cannot accept it in this formal and binding character.

The Prime Minister (Shri Jawaharlal Nehru): I take it, Sir, that if a name is wrongly spelt it will be correctly spelt. That does not need a formal amendment. If there are minor errors I take it that they can always be corrected.

Shri Chattopadhyay: There was good deal of discussion this morning over this and there was some difference of opinion too in this matter and Dr. Ambedkar said "Let this matter of nomenclature be left to the Speaker".

Dr. Ambedkar: I admit. But I said if the Speaker thought that the change in nomenclature of a place is a formal change; then it will be covered by my amendment.

Shri Chattopadhyay: It is for this reason that I have tabled this amendment.

Mr. Speaker: What does he want me to do now ?

Shri Chattopadhyay: I would like that after the words "formal changes" the words "including nomenclature of Constituencies" should be inserted. It is not formal. It is in my opinion very substantial, because in some cases.....

Mr. Speaker: I understand his point. If he urges that it is a substantial thing, no amendment can now be made. If it is a formal or consequential amendment which will include also sometimes, as Dr. Ambedkar said, even a change in nomenclature, then matters will stand differently. Therefore it is no use having this amendment.

Shri J. R. Kapoor: Do we take it that the change of the name of a constituency, if it does not materially or even slightly change the extent of the constituency, is covered by Dr. Ambedkar's motion?

Dr. Ambedkar: It is in the discretion of the Speaker.

Mr. Speaker: The House has accepted certain modifications. The House is going to give powers to the Speaker to make amendments of a consequential or formal character because, as was said, I believe, in the morning, there may be a mis-description of a boundary. Instead of "east" it might have been stated as "west". Only such amendments will be put through. There can be no further amendments now. Even by the unanimous decision of the House the Chair cannot go beyond the decisions of the House. The Chair will do only what is absolutely necessary to give effect to the decisions already arrived at by the House. That is the spirit in which the consequential amendments will take place.

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*PAPERS LAID ON THE TABLE

Delimitation of Parliamentary and Assembly Constituencies Orders

The Minister of Law (Dr. Ambedkar): I beg to lay on the Table the following Orders made by the President on the 15th May, 1951, under sub-section(3) of section 13 of the Representation of the People Act, 1950:

(1) The Delimitation of parliamentary and Assembly Constituencies (Assam) Order, 1951.

(2) The Delimitation of Parliamentary and Assembly Constituencies (Bihar) Order, 1951.

(3) The Delimitation of Parliamentary and Assembly Constituencies (Orissa) Order, 1951.

(4) The Delimitation of Parliamentary and Assembly Constituencies (West Bengal) Order, 1951.

(5) The Delimitation of Parliamentary and Assembly Constituencies (Hyderabad) Order, 1951.

(6) The Delimitation of Parliamentary and Assembly Constituencies (Madhya Bharat) Order, 1951.

(7) The Delimitation of Parliamentary and Assembly Constituencies (Patiala and East Punjab States Union) Order, 1951.

(8) The Delimitation of Parliamentary and Assembly Constituencies (Rajasthan) Order, 1951.

(9) The Delimitation of Parliamentary and Assembly Constituencies (Saurashtra) Order, 1951.

(10) The Delimitation of Parliamentary and Assembly Constituencies (Travancore-Cochin) Order, 1951.

(11) The Delimitation of Parliamentary and Assembly Constituencies (Part C States) Order, 1951.

[*Placed in Library. See No. P-169/51*].

*P.D., Vol. 12, Part II, 16th May 1951, pp. 8810-11.

* PAPERS LAID ON THE TABLE

Delimitation of Parliamentary and

Assembly constituencies Orders

The Minister of Law (Dr. Ambedkar): Under sub-section (*3*) of section 13 of the Representation of the People Act, 1950. I beg to lay on the Table the following Orders made by the President on the 18th May, 1951;

(1) The Delimitation of Parliamentary and Assembly Constituencies (Bombay) Order, 1951.

(2) The Delimitation of Parliamentary and Assembly Constituencies (Madhya Pradesh) Order, 1951.

(3) The Delimitation of Parliamentary and Assembly Constituencies (Madras) Order, 1951.

(4) The Delimitation of Parliamentary and Assembly Constituencies (Madras) Order,1951.

(5) The Delimitation of Parliamentary and Assembly Constituencies (Uttar Pradesh) Order, 1951.

(6) Delimitation of Parliamentary and Assembly Constituencies (Mysore) Order, 1951.

[*Placed in Library, See* No. p. 169/51].

Mr. Speaker: That exhausts all the Orders. I believe?

Dr. Ambedkar: Yes.

Mr. Speaker: I have to inform hon. Members that copies of certain Orders made by the President regarding Delimitation of Constituencies, which have just now been laid on the Table, will be placed in the parliamentary Notice Office as soon as they are received from the Press, hon. Members may obtain a copy each of these Orders on request.

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* P.D., Vol. 12, Part II, 18th May 1951, pp. 9065-66.

BUSINESS OF THE HOUSE

***Mr. Speaker:** I will see what is possible in this direction. I do not promise anything.

The House may adjourn now.....

Pandit Thakur Das Bhargava (Punjab)**:** It will be very difficult to finish the Bill by 1 o'clock. If the work is not finished by 11 o'clock. I have never seen a Bill being guillotined.

Mr. Speaker: If there is no agreement. If there is agreement certainly, we can finish.

Pandit Thakur Das Bhargava: I would therefore beg of you to give more time to come to an agreement.

Mr. Speaker: If the hon. Members are so agreed that they will finish the whole Bill by 1 o'clock, they may assemble at five minutes to one and finish. I do not mind. The only point is there must be some time limit. We must sit with an effort to finish. Otherwise, the discussions will be unending.

The Minister of law (Dr. Ambedkar): I do not know what the arrangement is.

Mr. Speaker: We are now adjourning and meeting again at 11-30.

Dr. Ambedkar: My view is this. That may not prove to be an easier solution. Therefore, the suggestion that I was making was this. I should be prepared to get on with some of the clauses about which there is no dispute at all. There is one clause, only one I think about which there is not yet any agreement. I am afraid it will take a pretty long time to reach an agreement. I thought the better course would be to proceed with the clauses about which there was no dispute at all. There, we shall see whether after a short adjournment, we are able to reach an agreement or whether we would require postponement of the consideration of that particular clause to some other date.

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* P.D., Vol. 12, Part II, 28th May 1951, pp. 9476-77.

Mr. Speaker: Anyway, there is a strong desire in the House to adjourn now to have informal discussions. I have accepted that position. It has not yet been declared as a decision from the Chair, but it has been unnounced from the Chair.

Dr. Ambedkar: I would press on the House to reconsider the matter.

Mr. Speaker: Let us not now take it.

Dr. Ambedkar: There are some clauses which can just be gone through without any speech.

Mr. Speaker: In respect of them too. If the clauses can be gone through immediately, there is no special point in not adjourning now. When we meet at 11-30 those clauses may be put through.

The House will now adjourn and reassemble at 11-30.

The House then adjourned till Half Past

Eleven of the Clock.

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* REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL

*** The Minister of Law (Dr. Ambedkar):** I beg to move:

> "That the Bill further to amend the Representation of the People Act, 1950, be taken into consideration."

This is a very short Bill and it seeks to amend the Representation of the People Act, 1950 which was passed by this House some time ago. The object of the Bill is to provide for the representation in the House of the People for the Scheduled Castes and the Scheduled Tribes in Part C States. As the House will remember under Articles 313 and 332, there is provision made by the Constitution itself for the representation of the Scheduled Castes and the Scheduled Tribes in Part A and Part B states. So far as Part C States are concerned, the matter has been left to Parliament and to the President. Article 82 of the Constitution says that so far as the representation of the people in Part C States is concerned, it shall be dealt with by Parliament and so far as the administration of Part C States is concerned, that is a matter which is left to be dealt with by Article 239. When the People's Representation Bill was before the House, it should have, as a matter of propriety also contained the provisions which are now included in this present Bill. But unfortunately, Government at that time had not got sufficient information as to the number of seats that were going to be allotted to Part C States in the House of the People, nor were they in possession of the tribes and the castes which were to be included in the provisions relating to Part C States. Consequently, these provisions had to be held back and they are now brought forth before this House.

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* P. D., Vol. 10., Part II, 18th April 1951, pp. 7021-39.

There are really two points which require, I believe, some explanation. As the House knows, there are altogether ten Part C States. It has not been possible for Government to provide representation for the Scheduled Castes and the Scheduled Tribes in all the ten Part C States and the reason is this. We have had to consider two different propositions. One was whether the Part C States in which a provision was to be made for the representation of the Scheduled Castes and the Scheduled Tribes had sufficient number of seats, so that if a seat was reserved for the Scheduled Caste or for the Scheduled Tribe, the result would not be the complete disenfranchisement of the general population. Obviously, there are some States which are included in Part C States where the total representation given to that particular State is only one seat in the House of the People. For instance, Bilaspur is one such State. Coorg is one such State where one that is given. Obviously, it is not possible to apply the principle of reservation in cases of that sort, where a seat could be allotted to the Scheduled Castes, the result of which would be total negation of the representation of the general population. Therefore, in providing representation for the Scheduled Castes and Scheduled Tribes in Part C States, we have had to select only those States where there is room for both to be represented in the Lower House.

The second principle that we have had to take into consideration was the totality of the population of the Scheduled Castes and Scheduled Tribes in any particular Part C State. Where the population was very small, we have not thought it proper to give any representation. But, where the population is considerable having regard to the total population, we have thought that a seat might be given in those areas. Consequently, what the Bill does is this. It reserves seats for the Scheduled Castes in Delhi, Himachal Pradesh and Vindhya Pradesh, one seat in each of these three Part C States. Here, the House will see that there is no great resulting injustice for the simple reason that Delhi has four seats, Himachal Pradesh has three seats and Vindhya Pradesh has six seats. We have felt that these States could well afford to allow one seat to be given to the Scheduled Castes.

4-00 P.M.

With regard to the Scheduled Tribes, we have selected Manipur and Vindhya Pradesh. There again, it does not seem that the reservation of seats to the Scheduled Tribes would cause any injustice to the general population. Manipur has got two seats. It is proposed in this Bill to reserve one to the Scheduled Tribes as you know the population of Scheduled Tribes in Manipur is very large. Secondly, we propose to give one seat to the Scheduled Tribes in Vindhya Pradesh which has got six seats. The rest of the States will have no representation either for the Scheduled Castes or Scheduled Tribes.

Now, I come to the question of the Schedule of Scheduled Castes and Scheduled Tribes. I might say that in this mater I have really no opinion of my own. These castes have been supplied to us by the Home Department and the Census Commissioner who has made a most recent investigation into the matter.

[SHRIMATI DURGABAI *in the Chair*]

I hope that the list that is given in the Bill is an exhaustive one and that no important community which can be included either in the Scheduled Castes or in the Scheduled Tribes has been omitted. If any hon. Member draws my attention *to* any omission or to any addition of a community which ought not to be there, I have an open mind and I shall certainly consider any suggestion made to me on that account. I do not think that there is anything more that requires explanation. With these words, Madam, I commend my motion to the House.

Mr. Chairman: Motion moved :

> "That the Bill further to amend the Representation of the People Act, 1950 be taken into consideration."

Shri J. R. Kapoor (Uttar Pradesh)**:** I have listened to the speech just made by the Hon. Law Minister with attention. I have also carefully read the Statement of Objects and Reasons of this Bill, and I have also carefully persued the various clauses of this Bill, But I must confess that I have not been able to appreciate the necessity of this Bill.

Shri Sonavane (Bombay)**:** You will never.

Shri J. R. Kapoor: To me, the Bill appears to be an absolutely unnecessary one. I am afraid, the valuable time that will be spent in the consideration of this Bill could have been more appropriately devoted to the consideration of the many other important Bills that are pending before us. I will just explain why I say so and I hope I will be able easily to bring conviction to my hon. friend who has somewhat impatiently interrupted me. We are hard-pressed for time and I consider it not only unfair but improper that we should be called upon to indulge in this sort of luxury legislation, if I may say so.

What is it, after all, that this Bill seeks to provide? It seeks to provide, firstly, reservation of seats for Scheduled Castes and Scheduled Tribes on the House of the People. Secondly, it seeks to provide for specification of Scheduled Castes and Scheduled Tribes. If I draw the attention of the House to Article 330 of the Constitution, it will be apparent that the Constitution itself specifically provides for reservation of seats for the Scheduled Castes and Scheduled Tribes. Article 330 states :

> "(1) Seats shall be reserved in the House of the People for—
>
> (*a*) the Scheduled Castes;
>
> (*b*) the Scheduled Tribes except the Scheduled Tribes in the tribal areas of Assam; and
>
> (*c*) the Scheduled Tribes in the autonomous districts of Assam."

Para. (2) of Article 330 runs as follows :—

> "(2) The number of seats reserved in any State"—

Not in a Part A State or Part B State, but in any State which obviously includes Part C States also—

> "for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State..."

I need not read the rest. My contention is that this article 330 specifically provides that seats for Scheduled Castes and Scheduled Tribes shall be reserved in the House of the People in respect of any State. This word 'State' has been defined in Article 1 of the Constitution which reads thus :

> "1. (1) India, that is, Bharat, shall be a Union of States.

(2) The States and the territories thereof shall be the States and their territories specified in Parts A, B and C of the First Schedule."

Therefore, Madam, it should be obvious that Article 330 read with Article 1 does specifically provide for reservation of seats in the House of the People for Part C States also.

Mr. Chairman: For the hon. Member's guidance, Article 330 covers only Part A and Part B States. The Constitution does not provide specifically for the Part C States.

Shri J. R. Kapoor: My contention is that Article 330 is not confined to Parts A and B States, but it extends its provisions to any State and according to the definition of 'State' in article 1, a Part C State is also covered. Therefore, my contention is that Article 330 is obviously wide enough to cover all States, Parts A, B and C.

Therefore, Madam, there is absolutely no necessity for bringing forward a Bill specifically again providing for the reservation of seats for the Scheduled Castes and the Scheduled Tribes in respect of the Part C States.

And then, Madam, I find from the Bill that it seeks not only to make this unnecessary provision for the reservation of seats in respect of the Part C States, but it goes further and even fixes the number of members who should be elected to fill up the reserved seats. According to clause 2 of the Bill we are asked to agree to a new section, section 3A which runs thus :

"Of the seats in the House of the People allotted under section 3 to each of the States of Delhi, Himachal Pradesh and Vindhya Pradesh, one shall be reserved for the Scheduled Castes; and of the seats so allotted to each of the States of Manipur and Vindhya Pradesh, one shall be reserved for the Scheduled Tribes."

Now, that means that we are called upon to commit ourselves for all times, unless of course amending legislation is brought forward before the House to give one seat and no more and no less than one—of course there cannot be less, than one—to the Scheduled Castes and the Scheduled Tribes of Part C States. In respect of Part A and the Part B States we may remember we have not specified either in the Constitution or in any Bills we have passed so far in respect

of the representation or election of Members to the House of the People, as to how many seats shall be allotted to the Scheduled Tribes and how many to the Scheduled Castes. No doubt sub-clause (2) of Article 330 gives us the formula for the reservation of the seats, that it shall be in accordance with the population of the Scheduled Castes and Tribes in that State. That is reasonable, logical and understandable. But here it is sought to specifically fix the number. Obviously, in the case of Parts A and B States this calculation is presumably left to be done by the Election Commissioner. But here the Hon. Law Minister wants to arrogate to himself or to this House this function which normally, in the case of the Part A and Part B States has been vested in the Election Commissioner. I do not grudge the arrogating to this House of this right. But I feel that this is a wrong way of legislation. Suppose five years later, the number of the Scheduled Tribes and the Scheduled Castes increases in all these Part C States it becomes very much more than their present strength and they require according to Article 330 much more than the one or two seats that you are now providing here, what will happen? They will then be entitled to more seats but the present Bill will stand in the way. Therefore, I submit that this is an ill-conceived clause which is being incorporated here, which first of all unnecessarily asks us to reserve the seats and then makes us commit ourselves to a specific number of seats.

The second thing that this Bill seeks to provide for is to specify the Scheduled Castes and the Scheduled Tribes who should be taken into consideration for the purpose of determining how many reserved seats should be provided for. Here also, I must submit that ample provision is made in the Constitution itself whereby merely by a notification of the President this thing could well be done. Article 341 provides that:

> "The President may, after consulation with the Governor or *Rajpramukh* of a state, by public notification, specify the Castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State."

Similarly article 342 relates to a notification in respect of Scheduled Tribes. Of course, it might be said that in Part C States you have neither a *Rajpramukh* nor a Governor to be

consulted by the President. But to that my reply is that, visualising some such difficulty in the working of the Constitution, a specific article—Article 392—has already been incorporated in the Constitution itself which says :

> "The President may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by order direct that this Constitution shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission, as he may deem to be necessary or expedient:"

Therefore all the words, "addition", "omission" and "modification" are there. Therefore, I say that immediately any such difficulty is experienced, the President may be requested to issue a notification under article 341 adapted or modified by article 392, saying that for the purpose of reservation of seats for Scheduled Tribes and the Scheduled Castes, the following castes shall be considered as Scheduled Castes and the following tribes shall be considered as Scheduled Tribes. Therefore, I submit that this Bill is unnecessary. The provision relating to reservation of seats is already there and the specification of the Scheduled Tribes and the Scheduled Castes could be done by a notification by the President. I therefore, submit that this Bill may very well be withdrawn and no more time need be spent over its consideration.

The question, however, may arise as to why the Law Minister, an intelligent man that he is and an eminent jurist as he is should have taken to this unnecessary course of coming forward with an absolutely unnecessary piece of legislation.

An Hon. Member: *Teek hai* (It is true).

Shri J. R. Kapoor : I am obliged to my hon. Friend for giving me such encouragement and support. I have been at pains to find out what could be the reason for the Law Minister to come before us with such an unnecessary piece of legislation. I could find very easily the reason. About two days ago I read in the papers a speech which he delivered while laying the foundation stone of a building. He had the boldness, indeed very great boldness to...

Dr. Deshmukh: I wonder whether this is all relevant.

Dr. Ambedkar: This Bill was introduced long before the speech was made.

Shri J. R. Kapoor : I would not indulge in any irrelevant remarks. I am trying to bring home to hon. Members of this House that this Bill is absolutely unnecessary. The question obviously would arise in the minds of hon. Members as to why an eminent jurist and an eminent lawyer like Dr. Ambedkar should ask us to enact an unnecessary piece of legislation. I have to prove that it is not the necessity or the propriety of this legislation (Interruption) that has made him to come before us but it is some extranecus considerations which are actuating him to come before us...

Mr. Chairman : Is it the contention of the hon. Member that this Bill exclusively belongs to Dr. Ambedkar? it is a Government Bill.

Shri J. R. Kapoor: Technically speaking, it belongs to the Government but I wonder whether Government or his other colleagues have really applied their minds to this Bill. *(Several* hon. Members : Oh! Oh!) I am paying a tribute to Dr. Ambedkar that he can easily persuade his colleagues to believe that something like this is necessary and he may persuade them to think—as he must be enjoying their confidence—that they need not so meticulously enter into every little detail of the Bill and they may well depend upon his ability and his prudence.

Mr. Chairman : Is not the hon. Member one of those who consented to the introduction of this Bill in the Parliament?

Shri J. R. Kapoor: I suppose the convention in this House has always been that no Member should stand to oppose the introduction of a Bill. I for one would be happy if hereafter that convention is to be broken and it will be open to hon. Members of this House to oppose even the introduction of a Bill. Anyway, I hope, Madam, it is not your intention to stop me from proceeding further with my speech merely on the ground that since at that time I had not opposed the introduction of the Bill I cannot speak now to oppose it.

My submission is that this Bill is merely an election stunt of which the Hon. Dr. Ambedkar wants to take the fullest advantage. He would like us and the world outside to believe that he and he alone has the interest of the Scheduled Castes and Tribes at hearts, so much so that even the Constitution-makers were not wide awake at that time and other hon. Members of this House who represent the Scheduled Castes and Tribes had never thought of it and that he has now come forward before the House as the saviour of the Scheduled Castes and Tribes with this legislation: and he would wish the world to believe that for the first time the interests of the Scheduled Castes and Scheduled Tribes in Part C States are going to be protected. He has in that speech to which I referred earlier, accused the hon. Scheduled Caste Members of this House of not being vigilant enough to protect the interests of the Scheduled Castes and he would like to arrogate to himself all the credit. I submit, Madam, these are the considerations..... (*Interruptions.*)

Shri Sonavane : Madam, on a point of order, I would like to know how the reference to the Scheduled Caste members of this House has any relation to the Bill that is before the House. Will not references made outside be out of order?

Shri J. R. Kapoor: I am trying to prove what is the motive behind the Bill. Whether there is any propriety or necessity.....

Shri Ethirajulu Naidu (Mysore)**:** Can an hon. Member attribute motive to the hon. Minister that he has been moved by extraneous considerations other than the subject matter of the Bill—that is what he said and was dilating upon—Madam you may consider whether personal motives can be attributed to any Member.

Shri J. R. Kapoor : I would not dilate very much on it but I feel.....

Shri Ethirajulu Naidu: Would you give a ruling on the point of order raised by me?

Mr. Chairman: Order, order. The hon. Member wants a ruling on the subject. I would like to say that the hon. member's attention has been drawn to that position. If only

he is given a few more minutes to make his statement, then other hon. Members may also make their statements.

Shri J. R. Kapoor: Madam, I may not have used the word motive. I would ask what are the reasons behind the Bill ? The reasons are not the necessity or the propriety of it but the reason is that the Hon. Law Minister wants to make capital out of this Bill for election purposes...

Mr. Chairman: Without dilating upon the motives behind this Bill I would beg of the hon. Member to speak on the merits of the Bill as it is.

Shri J. R. Kapoor: I have already spoken on the merits or the absence of merits of this Bill. I could only speak of the demerits of this Bill.

Sardar B. S. Man (Punjab)**:** On a point of order, Madam, you have ruled that motives could not be discussed. May I ask whether motives, intentions or merits can be divested from each other?

Mr. Chairman: The ruling will be that only motives need not be always dilated upon.

Sardar B. S. Man : It depends upon the emphasis that one wishes to make.

Mr. Chairman: It is a matter of opinion.

Shri J. R. Kapoor: If you wish me not to rub the point too much I will not rub it any further.

Dr. Ambedkar: You can do it: I have borne all this for 25 years.

Shri J. R. Kapoor: I think the Hon. Law Minister is bold enough, audacious enough and he can go even to the length of condemning his colleagues in the Government: he has that boldness and audacity. I would very much like to know whether it is in the propriety of things that one Cabinet Minister should outside the House condemn other Cabinet Ministers. (*An Hon. Member:* All irrelevant) I should think it is not irrelevant. Sitting in the Parliament we are anxious to see that democracy is properly worked and on every

occasion hon. Members in this House must be on the watch to see that nothing which is contrary to democratic principles of Government is allowed to go on and I do submit, Madam, that at the earliest opportunity we should express ourselves that we are very apprehensive of this sort of thing going on between one Cabinet Minister and his other colleagues.

In conclusion I would only submit that every Member of this House is as much interested as and perhaps more interested than the Hon. Law Minister in protecting and safeguarding the rights and privileges of the Scheduled Castes and Scheduled Tribes. They are absolutely equal to us and I would even say they are flesh of our flesh and bone of our bone. We want to treat them absolutely on an equal footing and I would even be prepared to give them more privileges that they may be entitled to not on the basis of their population alone and I would not grudge to give them any amount of representation. But my submission is that there was no necessity for this Bill to be brought before us for reasons which I have already submitted. I have done.

Shri Raj Bahadur (Rajasthan)**:** Why should the hon. Member be so upset? it is only his first election speech.

Shri Chandrika Ram (Bihar)**:** I was very sorry to hear the speech of my hon. friend Mr. Kapoor regarding the Scheduled Castes. The Scheduled Castes have been neglected, no doubt, throughout the length and breadth of the country for the last so many centuries, but since the Government of India many years back took over the responsibility for the Centrally Administered Areas, the conditions which were very bad indeed there were made deplorable. Whereas in the other States—Part A and Part B States as they are called in the Constitution—they have got legislatures and other elected bodies, in the Centrally Administered Areas there are local advisory councils presided over by the Chief Commissioner who never cared for anybody. In the Constituent Assembly we moved an amendment for the inclusion of Chief Commissioners also in article 341 which says :

> "The President may, after consultation with the Governor or Rajpramukh of a State, by public notification specify the castes, races

or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State."

At that time the learned Law Minister said that as these Part C States are governed by the President himself according to article 239 of the Legislative Constitution, there is no need for the inclusion of Chief Commissioners in article 341. The entire difficulty arose that way and the need for the introduction of this Bill today is that in that article Chief Commissioners are not included and the President could not consult anybody for purposes of issuing notifications for Part C States.

Shri J. R. Kapoor: What I said was that under article 392 the President could make the necessary adaptation and additions in article 341, under which the Scheduled Castes could be specified even in respect of Part C States.

Shri Chandrika Ram : But the difficulty is this. If you read clause (2) of article 341 you will find it reads :

"(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of, or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification."

Therefore, under this article the President is not in a position to issue another notification. Only Parliament is competent to do it.

Shri J. R. Kapoor: The question of another notification does not arise because the President has not so far issued any notification for any Part C States.

Shri Chandrika Ram: This matter was also raised with the Law Ministry, the Home Ministry and the States Ministry. We, who represent the Scheduled Castes in this House ran from one Ministry to another and consulted one Minister after another. Every one of them said that as there was no constitutional provision, notifications could not be issued regarding Part C States. When the original Bill was moved here, I moved an amendment in this House but it was not accepted on that very ground. The different organisations

belonging to the Scheduled Castes, especially the Bharatiya Depressed Classes League, of which I am the General Secretary, submitted a long memorandum to the President, to the Prime Minister, to the Law Minister and to the hon. Shri Jagjivan Ram in this matter. After great consideration this proposal has been brought before this House. Madam, let me inform the House that justice has not been done to these unfortunate people in these centrally Administered Areas of the country. We speak very much against the State Governments of the various States but what about the Part C States? In my own State of Bihar there are all kinds of facilities for *Harijans* for reading, writing and in the services. But what do we see in the Centrally Administered Areas? Even education for the *Harijans* is not free. There are no arrangements for scholarship and other facilities. The Government of India have appointed a Board to deal with these matters. Last year they received about 100 applications from the students reading in colleges, but only five to seven could get scholarships. And in many of the other States, in my State of Bihar for instance, all the students reading in colleges get a stipend of Rs. 35 a month. So, the condition of these people in the Centrally Administered Areas is very bad indeed. As regards the representation of these people, there is no representative of theirs in this House. They have always been neglected by the Central Government.

The responsibility for the administration of the Part C States is that of the Central Cabinet where the learned Law Minister is also a Member. May I ask what he has done for these people for the last three or four years he has been in the Cabinet ? I have seen that the Law Minister who calls himself the saviour of the Scheduled Castes was silent on this issue in the Constituent Assembly and even on the last occasion when a Bill was moved for Part C States representation. Therefore, if he comes with a Bill for the representation of these people now, it should not be opposed by any Member of the House. As we know, the number of Scheduled Castes in these Centrally Administered Areas is something like fifteen to twenty lakhs. I have moved an amendment that where they do not have representation, as

for instance in Coorg, Ajmer, Tripura, they should be given representation. The Scheduled Castes in those places have not even been listed as Scheduled Castes. I do not know whether the Law Minister will be able to accept my amendment and list these people as Scheduled Castes. I do not say that wherever these people are, they must be given representation in the Councils, Assemblies and Parliament. That is not my demand. If the population of these people does not warrant representation, do not give it to them. If on the other hand, their number warrants, please give them representation and if you want to give them a fair deal and justice, at least include them in the list of Scheduled Castes so that facilities in education, services, representation in local bodies, and facilities even for drinking water can be given to these people. That is my only argument. I must say that in my opinion the Central Government has not done justice to these people and the larger share of the responsibility for that falls upon the two *Harijan* Ministers in our Cabinet, especially upon Dr. Ambedkar who has been making public speeches that people in Parliament belonging to Scheduled Castes and Scheduled Tribes are doing nothing. I do not think this attitude of Dr. Ambedkar is fair, justified or warranted. Therefore, when we are working under a democracy and have laid down adult franchise in the Constitution for everybody, if these unfortunate people in the Centrally Administered Areas get adult franchise and get representation, there should be no grudge and nothing should be said against this. If any hon. Member gets up and opposes it, I shall say that he is acting against the principle laid down by the Father of the Nation—Mahatma Gandhi.

Regarding the representation of these people in this House—and this is the only House in which they can be represented because there is no other House going to be established in the Centrally Administered Areas,—I should say that their representation is not fair. Delhi with a population of 15 lakhs will have three representatives in this House, but the number of these people in the Centrally Administered Areas is about 20 lakhs and yet they will have only three representatives, that is to say, one representative

less calculating on the basis of one representative for every five lakhs. And yet people say that this Bill has been introduced to give representation to these people who are less in number in the Centrally Administered Areas.

In the end, I shall only say that there are other castes and communities which are Scheduled Castes and which have been recognised as Scheduled Castes by the Government of India in the Ministry of Education. As soon as the President declared a Scheduled Caste list a schedule was published and this list was published in respect of Scheduled Castes and Scheduled Tribes for purposes of scholarships only. I would request the Hon. Law Minister to accept this list, so that those who are included in it may get the facilities that Scheduled Castes in other states are getting. With these words, I would request the Hon. Minister to accept any amendment when I move it at the proper time.

Sardar Hukam Singh (Punjab)**:** There cannot be any objection to the Bill under discussion. I feel that it was essential and has come in good time. I cannot persuade myself to agree with my hon. friend Mr. Kapoor when he said that there was no necessity for this Bill or when he questioned its propriety. Article 341 gives power to the President to specify the classes which may be included in the list of Scheduled Castes, but obviously if we read that article the intention was that it might be confined to Parts A and B States. That article did not concern Part C States. Therefore it was that it was mentioned that it would be done with the consultation of the *Rajpramukhs* or the Governors of those States. The other provisions in that Chapter also relate to only Parts A and B States. Therefore, there cannot be any doubt that Part C States were not provided for so far as the specification of Scheduled Castes was concerned. Again, it has been mentioned that Article 392 could be availed of for the removal of difficulties by the President, but that article does not apply, if we look at that Article closely. It reads like this :

> "The President may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by order direct..... etc..... etc..... "

Therefore, these two articles could not be availed of and there was necessity for this Bill. Then, it has been said that 341 (2) gives powers to the Parliament when an order by the President has been made. The Parliament is authorised to add to or subtract from or omit any caste from that schedule, but this is the general power, I Suppose, that is vested in the Parliament that is being exercised in enacting the Bill now before us.

As I have said, the Bill was essential and it has been brought at the right moment before the elections which are so near at hand. There is a separate list for every State and I feel that some Members who spoke were right when they pointed out that some castes which are specified as Scheduled Castes in one State may not be specified as such in the adjoining States. There are certain entries in the lists before us which to my mind give rise to some doubts, and I want the Hon. Minister to kindly clear the position. So far as Delhi is concerned, there are two castes included in Nos. 5 and 6: Banjaras and Bawarias. But these people are not included in the list under Himachal Pradesh. These Banjaras and Bawarias are to be found in Himachal Pradesh as well in good numbers.

Dr. Ambedkar: If my hon. Friend will see entry No. 6 under Himachal Pradesh, he will see Bhanjra there.

Sardar Hukam Singh : I am referring to Banjara and not Bhanjra.

Dr. Ambedkar : So it is a question of pronunciation.

Sardar Hukam Singh: No. They are different castes altogether. A Banjara is a different tribesman from a Bhanjra. Then again, Mazhabi entered as item 16 under Himachal Pradesh has not been entered under Delhi. These people are included in the list of Punjab and PEPSU and after the partition a good number of them have migrated to the adjoining States and some have come to Delhi too,, apart from a good number who have gone to Himachal Pradesh. When the local authorities in those States collected the figures, they may have thought that their number was very small, but then

it would be a handicap for them if they are not included. As we know, these are either landless workers or labourers. The Banjaras move from one State to an adjoining State in search of employment and they eke out their livelihood. It would be a difficulty for them if they are deprived of their representation and the other concessions which they may otherwise be entitled to enjoy. Then there are one or two other entries. One such is No. 19 under Delhi—Julaha (Weaver). Then under No. 14 under Himachal Pradesh it is given as Kabirpanthi or Julaha or Keer. These Kabirpanthis and the Julahas are two different castes. They are not one and the same.

Dr. Ambedkar: Sometimes, it is one caste with two names.

Sardar Hukam Singh : That is not so here. These are two distinct and separate castes. Therefore difficulty would arise. Then again, there is entry No. 23 under Himachal Pradesh—Ramdasi or Ravidasi but under Delhi entry No. 32 reads Ram Dasia. I would like to know from the Hon. Minister whether Ramdasi and Ravidasi are two different castes and if they are—as in my opinion they certainly are—then why should that be omitted from Himachal Pradesh ? In entry No. 33 under Delhi it is given as Ravidasi or Raidasi but under Himachal Pradesh against entry No. 23 it is given only as Ramdasi or Ravidasi. So, there is a confusion. I am not aware of the actual denominations by which they may be called, but there is certainly some confusion and those castes have not been included in Himachal Pradesh under those two separate heads. My only point is that these provinces, Punjab, PEPSU, Himachal Pradesh and Delhi are contiguous areas and people keep on moving from one State to another in search of livelihood. Therefore if these poor classes are not included in the lists of all the States, they would be deprived of a concession which the Constitution wanted to give them and the whole object of ours would be frustrated. Therefore, I want to draw the special attention of the Hon. Minister to this matter. I had sent an amendment on this point this morning, copy of which he would by now have received. I would request him to give it his earnest attention.

With these few words, Sir, I support this motion.

Shri Sonavane: I rise to support this Bill and to congratulate the Government on bringing this measure before this August House. I was, therefore, surprised to see why the mind of Mr. Kapoor was so confused today. As is usual with Mr. Kapoor to speak on every Bill, he did today without any justification.

A cursory reading of article 332(1) and article 341(2) would have made it clear to Mr. Kapoor that this measure was necessary. My hon. friend simply relied too much on article 330 (2), caught hold of words "in the State" and went on arguing with that, oblivious of the fact that there are other articles. I would draw his attention to article 332(1) which conditions and qualifies article 330(2). Article 332(1) reads thus:

> "Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the tribal areas of Assam in the Legislative Assembly of every State specified in Part A or Part B of the First Schedule."

Shri J. R. Kapoor: We are not dealing with the State Assemblies; we are dealing with the House of the People.

Shri Sonavane: I would also draw the attention of the hon. Member to Article 341 (2) which reads :

> "Parliament may, by law include in, or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, face or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification."

In view of these provisions in Part XVI I think the measure that has been brought forward is absolutely essential and Mr. Kapoor should not have raised his voice against it.

I would now come to another aspect of this question to which the Hon. and learned Law Minister should pay attention. The measure specifies certain castes in the Sixth Schedule. But there are other Scheduled Castes in other States. These Scheduled Castes when they go over to other States, are not recognised as such and would not enjoy the rights given to

them by the Constitution and so would not get reservations. He would remain an untouchable, suffering all the disabilities and disadvantages, with none of the rights and other benefits that would have accrued to him if he had remained in his original State. Therefore my point is this. A Scheduled Caste man in one State even if he migrates to another State should be equally entitled to all the benefits under the Constitution. I would request the Hon. the Law Minister to embody a provision to this effect. By excluding the Scheduled Castes from the enjoyment of such privileges, when they move from one State to another there has been a restriction on their movement from one State to another. Therefore, I would earnestly request the Hon. Minister to consider the insertion of a proviso to section 3A by which all persons who are Scheduled Castes in their States should get automatically all the rights and benefits if they migrate to States other than their own.

The third point that I would like to bring to the notice of the Hon. Minister is that the Scheduled Caste lists are defective and many castes which are untouchables in the different States are omitted and no efforts are being made to see that these castes are included in the Union List as also in the list of those States. The Hon. Minister said that this list is exhaustive and no caste has been omitted. But I think he has failed in his duty to see that all the Scheduled Castes were brought on the Provincial Scheduled Caste List as also on the Union Caste List. Many representations have been sent to the Home Minister and to the Law Minister about those untouchable castes.

Mr. Chairman : Is the hon. Member likely to take a long time?

Shri Sonavane : Yes, Madam.

Mr. Chairman: Then he may continue his speech tomorrow.

The House then adjourned till a Quarter to Eleven of the Clock on Thursday, the 19th April, 1951.

*REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL—*contd.*

Mr. Speaker: The House will now proceed with the further consideration of the following motion moved by the Hon. Dr. Ambedkar on the 18th instant:

> "That the Bill further to amend the Representation of the People Act, 1950, be taken into consideration."

Shri Sonavane (Bombay)**:** When the House adjourned yesterday I was speaking on how the movement of the Scheduled Castes and Scheduled Tribes from one State to another would be restricted by the failure of the Ministry of Law to safeguard the interests of these people by seeing that they are not omitted from the lists of the States and the Union. I would like to illustrate my point by giving a concrete instance. In Bombay, there is a caste known as Mahar. Persons belonging to this caste come over to Delhi, but this caste is not included in the Delhi Scheduled Castes list. Thus, these people would not get any of the benefits under the Constitution only because of the fact that their caste has not been included in the Scheduled Castes list of the Delhi State. In other words, had they remained in Bombay, they would have enjoyed all the privileges and benefits. Therefore, my point is that even if the Scheduled Castes migrate from one State to another, they should get the privileges and benefits under the Constitution. That is not the case today. This omission of the recognition of all Scheduled Castes in the different States has had a restrictive effect on their movement. Therefore, I would urge the Hon. the Law Minister to see to this and make an all-embracing list so that the restriction on their movement would be removed.

Another instance of this omission is that certain castes from Bombay State have gone over to Madhya Bharat and they have not been included in the list there. There are three or four castes of that type. Though they are untouchables, the benefits under the Constitution are denied to them. While replying to a supplementary question of mine, the Hon. the

* P. D., Vol. 10, Part II, 19th April 1951, pp. 7042-7125.

Law Minister had said that the criterion of the Scheduled Caste list was untouchability. Therefore, I would like to ask him what he has done to see that all the untouchables are brought on the State as well as the Union lists. He has failed to do his duty towards the untouchables being in authority here, and I would suggest that an earnest effort should be made by him to rectify the mistake before the coming elections.

Now, I would go to another point. The Scheduled Castes in certain States like Ajmer, Bhopal, Cutch and Tripura, who get not more than one seat, would not get any representation at all. I think it would have been wise and advisable for the Law Ministry to have evolved a formula by which the Scheduled Castes and Scheduled Tribes could have been given joint representation, going in rotation. As it is, these people, the Scheduled Castes and Scheduled Tribes would have no representation at all even though they are in substantial number in those States. I would, therefore, request the Hon. Law Minister to evolve a system of joint representation for these people by rotation.

The last point I want to make is that under the Constitution only such of the untouchables or Scheduled Tribes who are listed as such are recognised by the States and the Union and would get the benefits under the Constitution. Such lists have not been prepared by the States of Bilaspur, Coorg and the Andaman and Nicobar. In the absence of such lists of Scheduled Castes and Scheduled Tribes, those people residing in those States would not get the benefits for their education and upliftment in the services. Therefore, I would request that such a list may be prepared so that these persons may get all the benefits under the Constitution.

Once more I would thank the Government for bringing forward this measure and request the Hon. the Law Minister that the suggestions which I have made are embodied in the Bill.

Pandit Munishwar Datt Upadhyay (Uttar Pradesh)**:** It is needless to emphasise the fact that this House is very keen to safeguard the interests of the Scheduled Castes and Scheduled Tribes, because our Congress Government, and the

members of this House who are mostly Congressmen working under the guidance of Mahatma Gandhi, have all along been taking keen interest in the cause that was so dear to Gandhiji. I do not think that on that point it is at all necessary that an assurance need be given to this House or to the people outside that we are very praticular of safeguarding the interests of the Scheduled Castes and Scheduled Tribes, in so far as the question of representation of these castes is concerned in the House of the People as also in State Legislatures. But it appears that there have been certain facts in the knowledge of hon. Members on account of which they had to make certain remarks yesterday.

So far as the spirit of this Bill goes, it is a laudable and welcome measure, providing for the representation of the Scheduled Castes and Scheduled Tribes in the House of the People as well as State Legislatures. But this provision need have been made only if there is no provision for it in the law as it exists at present.

12-00 NOON

Reading the Constitution, I find that there is already a provision for the representation of Scheduled Castes and Scheduled Tribes in this House and also in other Legislatures. Article 330 is very clear on this point. Clause (2) of article 330 says :

> "The number of seats reserved in any State for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State in the House of the People as the population of the Scheduled Castes in the State, or of the Scheduled Tribes in the State or part of the State, as the case may be in respect of which seats are so reserved, bears to the total population of the State."

So, my submission is that this provision applies to all the States. It does not apply only to Part a States, or Part B States, or any particular state. Probably the confusion arises on account of reference to article 332, where provision is made for representation in the State Assemblies. I think this Bill is only a repetition of the provision in the Constitution. If it is argued that there is no provision in article 330 of the Constitution for the representation of Scheduled Castes and Scheduled Tribes in the House of the People, I do not think

there is any other provision, and if there is no other provision, I do not think even this Bill could be brought before this House. So this Bill is either *ultra vires* or it is superfluous. In case it is accepted that a provision already exists, it is not necessary to bring this Bill. From that point of view this Bill is superfluous. In case there is no provision in the Constitution, this Bill is *ultra vires*.

Another point for which provision has been made in this Bill is declaration of certain castes as Scheduled Castes and Scheduled Tribes. For that also there is provision in articles 341 and 342. According to article 342 (2):

> "Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification."

My submission is that if this House has any right to make any alteration it is under clause (2) of article 342. Under that provision the scope of that modification is limited. The scope is limited to the fact that if there be any list prepared by the President under clause (1) it is only to that list that any modification can be made by an Act of Parliament. Otherwise there is no independent provision for making such modification or change in the list or to provide for the fact that certain castes should or should not be included in the Scheduled Castes or the Scheduled Tribes. So, as regards that provision also, I do not think that this Bill can take us any further, because there is no such list prepared by the President to which this modification might be directed. Therefore, my submission is that in all cases either this Bill is superfluous or it is *ultra vires* in respect of both the points that have been attempted to be covered by this Bill. The provision already being present in article 330 of the Constitution for the representation of the Scheduled Tribes and the Scheduled Castes in this House, it is absolutely unnecessary to have this Bill or to make any law in this House.

Mr. Speaker: Mr. Muldas Vaishya.

The Minister of Law (Dr. Ambedkar): I would like to make one request. I do not know whether the argument that has been advanced by Pandit Munishwar Datt Upadhyay is likely to be repeated by other members, as it was done yesterday. If that is so, with your permission, I would like to explain what exactly is the constitutional position. But I leave it to you. Otherwise I will take up the matter in my own turn when it comes.

Mr. Speaker: I think that will be better. I myself have not been able to catch his objection.

Dr. Ambedkar : They have missed a particular point. That is why they are raising this sort of objection.

Shri Bharati (Madras)**:** That was also raised yesterday.

Mr. Speaker: Then that argument should not be repeated and the Law Minister will reply to that point at the end.

Shri Sidhva (Madhya Pradesh)**:** Let him reply now.

Mr. Speaker: I shall not allow that argument on the ground of repetition .

Shri Ethirajulu Naidu (Mysore)**:** I would request you not to rule out a discussion of the Constitutional position, because there may be other aspects of it which will have to be presented.

Mr. Speaker: Anything can be argued under different aspects. But the words of the Constitution are there and there is the Bill before the House, and I think that Members would trust the intelligence of the Members that they can grasp all the aspects if they are explained once or twice. What is the good of repeating them?

Shri Dwivedi (Vindhya Pradesh)**:** Although the Bill . relates to Part C States, no Member from these States has so far been allowed to speak. I would like to know if you will not allow the Members from Part C States to say something.

Mr. Speaker: I do not know why hon. Members should think that they have not been allowed. Every Member is allowed. But certainly every person cannot get an opportunity. And I believe the Bill is restricted in its operations only to

certain Part C States. I think I am right when I say that. (*Hon. Members:* Yes, yes). The utmost that could be claimed by any. Member is that Members coming from that State to which the Bill relates should also be given an opportunity.

Capt. A. P. Singh (Vindhya Pradesh) **:** We come from Vindhya Pradesh.

Mr. Speaker: It will not be a desirable practice to urge that because the words "Part C" are there, therefore every Member coming from Part C States should be entitled to speak on it. But I need not go into that aspect. I am just keeping a watch over the thing and I shall follow what I think to be the proper and the best method.

Shri Dwivedi: May I request you to allow those Members who come from Part C States and whose case is involved here?

Mr. Speaker: Let them plead. But at least the Hon. Member does not come from one such.

Shri Dwivedi: Sir, I come from Vindhya Pradesh.

Mr. Speaker : I am so sorry. Yes, Vindhya Pradesh is there. But I want to give preference first to people who themselves belong to the Scheduled Castes, and hon. Members who do not belong to the Scheduled Castes will kindly forbear for sometime and allow those who belong to that caste to have the fullest opportunity. And I am giving an opportunity to the hon. Member Mr. Muldas because he comes from that class. I have got a list and I have got in my mind as to who come from that community and who should be given preference. Let us not argue that point any further.

Shri M. B. Vaishya (Bombay)**:** (*English translation of the Hindi speech*) Sir, I deem myself to be fortunate for having been permitted by you to speak on this bill. After listening to the debate on the Bill introduced by Hon. Dr. Ambedkar, I also wish to express my ideas. He is a great scholar of law and must have introduced the present Bill as a result of the same. It was only after the coming of Mahatma Gandhi, who was our saviour, we began to realize that we also are human beings. At many places Hon. Dr. Ambedkar has stated that the Scheduled Class people were happier under the British

rule, and now under the Nehru Government they are unhappy. I received this statement as a great shock. Our country has been famous for truth. Prahlad, a boy of five, had courage enough to utter truth and nothing but truth before his father. For us *Harijans* Mahatma Gandhi did so much and even the present Congress Government also are doing much but this is certain that our condition has been deteriorating since so long that a greater amount of our difficulties is a result of that unhappy position. Our poverty cannot be removed so easily. A lot will have to be done for us. But when I see our leaders minimizing the efforts that are being made for us, I feel extremely pained. Obstacles should not be placed in the way of a smoothly running cart. It is not proper for us to do so. The path of service has always been acclaimed in India to be a path of *Yogis* and we have ever been following the same from times immemorial and we have served the society in every possible way. During the days of Swaraj Movement, I can say of at least my own province of Gujarat, if not of others, that our people had worked shoulder to shoulder with our other friends and that is why we do not like to beg anything from them like beggars. Today we demand our legitimate rights from them on the basis of equality and brotherhood. Today we have our own Government, and it is the duty of the Parliament and the Members thereof to do justice to us. In spite of all these things there are still many places in India where our bridegrooms cannot ride a horse, where Harjians cannot sit in motor buses, and there are some places even where our women folk cannot put on costly garments and ornaments. There are no doubt some such places in India even today but it does not mean that condition is the same everywhere. There is no doubt that though much is being done for us, a lot more still remains to be done. But I do not like to be ungrateful as to say that, in spite of so much being done for our uplift, nothing is being done for us and that we were happier under the British rule. There is no doubt that due to their policy of 'divide and rule', the Britishers had picked out some educated persons among us, treated them as their equals and tried to benefit them in every possible manner. These people can thus say that they were happier under the British

rule. But today the Harijan Community as a whole is being benefited and our representatives who occupy the seats on Treasury Benches, as Shri Sonavane has stated, by exercising their pressure upon the Government can get many things done for us. But putting the Government in disrepute and working against the Government would not, except bringing ruin to us, in any way prove beneficial to us. Dr. Ambedkar is a great scholar. I pray God to give him wisdom so that he may not utter such words as may prove our community to be ungrateful. He has played so many stunts in his life that I suppose this also to be one of them. Who knows this may also be an act of trickery as Bhagwan Shree Krishna used to show! God save us from these *lilas* of trickeries. We cannot turn ungrateful towards the country in which we have taken birth and whom we have served to the best of our ability. There was a time when we were asked to change our religion. But thousands and lacs of us showed to the world that even at the cost of our own heads we will not go against the land, where we have been born and give up the religion which we have adopted. We can sacrifice our lives but we cannot give up our *dharma.* In the end I have only to say.....

Mr. Speaker: Order, order. I can appreciate the hon. Member's keenness to speak out his heart, but then, I am afraid, we are trying to introduce, on the floor of the House, some other subject which will be discussed better outside. At present, we are concerned with this Bill. A few preliminary remarks is something different, just to impress upon the House, if at all any such thing is necessary, the fact that the Scheduled Castes should be given special consideration. But beyond that, let us not enter into any political or other controversies which may or may not have been started outside the House; let them be carried on outside the House. I earnestly request every Member in the House not to go beyond the strict scope of the Bill. I did not want to interfere with the hon. Member's speech, nor do I want to put his enthusiasm and his feelings at a lesser value. He will confine himself now to the merits of the case. I was just watching when he was really coming to the merits of the case.

Shri. M. B. Vaishya: The ruling that you have kindly given in this regard is certainly valuable and we have but to follow it. But I have to say a few words to Hon. Dr. Ambedkar. The Bill that he has introduced has been moved on behalf of the Government and as it must have been very a necessary one, therefore, we, Harijans will surely lend our support to the same. But what I had to say I have submitted in brief. I hope that he will excuse me for what I have said here, and you Sir, will also excuse me.

(*Translation concluded)*

[SRHIMATI DURGABAI *in the Chair*].

Dr. Deshmukh (Madhya Pradesh) **:** My friend the Hon. Minister is in a great hurry, but I have some very important points to urge. It is not with regard to one particular caste or another, but I must say, that the whole way in which this matter of representation of the people, election rules and regulations are being dealt with is extremely unsatisfactory. We have had one Bill in 1950, which is now Act No. XLIII of 1950. We know the way in which it was introduced, the struggle that this House had to put in for the sake of getting the provisions amended and the number of seats increased. Then very soon after we had an amending Bill which is Act No. XXIII of 1950 by which we provided for representation of Part C States in the Council of States. Then we have not had any Bill for some time although two are now pending before the House, but we had two notifications under the signature of the President. It is perfectly legal and constitutional to do so. Those are the notifications dated 10th of August 1950 and 6th of September 1950 specifying the Scheduled Castes and Scheduled Tribes under articles 341 and 342 of the Constitution. My first complaint refers to action of Government under these two articles 341 and 342. Under the second part of article 341 Parliament alone has the authority to modify, add to or substract from the list that has been notified under the signature of the President. It was quite proper and constitutional to notify these lists but I wish the Hon. Minister had given this House an opportunity of looking into and scrutinizing the lists that have been given in these notifications.

I do not know whether the Hon. Law Minister had seen the representations, but I have had many letters from many communities, who have a grievance that they have not been included in these lists. It would have been quite proper if, instead of bringing another small Bill confined to one particular class of States—I do not object to the Bill on the other hand, I am in favour of the Bill—some sort of procedure was available to the Members of this House in the case of these two lists, so that it would have been possible for us to scrutinize them and the people would also know how far their rights have been protected. The long discussion and the anxiety of the Members of this House are, I believe, really based on this fact. If everything else was in order, if there was proper investigation as was absolutely necessary in this case, so far as the Parts A and B States are concerned—this is a supplementary list of Scheduled Castes with reference to Part C States—the debate in the House would probably have been much shorter. The keenness of Members would have been less and we would not have had much occasion to complain. But the way in-which the whole thing is being done is really strange and I hope and pray that this sort of thing is not done.

We should have one consolidated enactment in which all these things should be provided for. There will then be no need to have amending Bills month after month to add or subtract and all the various things. My first and very earnest request to the Hon. Minister is that the lists given under these notifications are not exhaustive. The people belonging to many castes feel that they have been unjustly omitted and if we really compare these lists with the lists which formed the basis of the Order in Council under the 1935 Act we will find that many castes have certainly been omitted. If it is contended that these castes which have been omitted have really ceased to be untouchables or there has been a certain change in their social status, that is another matter. We do not know whether the House will accept it or not; whether the people will accept it or not. When we had these lists prepared as schedules to the 1935 Act, there was a great deal of investigation, then the people were informed and they came to know what their rights were and what they should fight

for. Nothing of this sort has been done on the present occasion. I do not know who prepared these lists which have been published under the signature of the President. I do not know what investigation has been made so far as these lists in the present Bill are concerned. These are matters which really create a lot of anxiety and feeling in the minds of the people and I would therefore like that the Government do really have some system, some method in approaching this question a method which will give satisfaction to the largest number of people.

Then so far as this particular Bill is concerned, I think it is necessary so long as it is proposed to give representation to some of the Part C States. I think the lists have got to be prepared and whether they were prepared at one time as part of one whole or another is a different question. But I do not think this is absolutely superfluous. It does not appear to me beyond doubt that there is any definite provision in the Constitution according to which we are enacting this measure. So far as I can see the only justification or the only authority for bringing in this Bill appears to be that wherever there are Scheduled Castes people, some seats are proposed to be reserved for them. But this is merely because there is a provision for reservation for Scheduled Castes—I do not know if there is any specific provision in the Constitution according to which we can make this provision, apart from articles 341 and 342 which do not apply to Part C States. This is merely a technical objection. I really want that seats in Part C States should be reserved and Scheduled Castes should be enumerated. There cannot be any difference of opinion so far as the desirability of enumerating the Scheduled Castes or making provision for them so far as Part C States are concerned. But, what I wish to find out from my hon. friend when he replies is, where exactly is the provision in the Constitution according to which this representation is being sought to be given, according to which this Bill is perfectly in order?

So far as the lists are concerned, I wish a little more time was available to all the people to know how far their rights

are going to be affected. I have received representations from various communities which desire that their names should be included. It is quite likely that many backward people have not yet come to know that anything is being done which would affect their rights. It may very well be that backward as these people are, their rights are probably jeopardised, simply because we are doing this in great hurry. From that point of view, I would not be surprised if there are many castes which happen to be omitted and which have a grievance against what we are doing. If we compare the lists that are in vogue, for instance, so far as the present situation is concerned, the Order in Council prepared in 1930 and 1931 and which formed part of the Act of 1935, with the present list, we find that there are great many omissions. I have another notification by the Public Service Commission. Here in Delhi, you will be pleased to find that the list of Scheduled Castes contains no less than 64 numbers. As against that, in this schedule, you find only 39. What steps have been taken to find out and what justification there is to omit the different castes, I do not know. I am prepared to wait till the Hon. Minister replies. But, I am sure, this is a somewhat drastic reduction. I do not know on what basis it has been made. Even if it is slightly late, I would request my hon. friend not to be in a hurry, for my hon. friend is in a great hurry to get this Bill through. That is the only anxiety of the Cabinet Ministers; they are in a hurry and want things to be done in five minutes or ten minutes, as if they are the only persons who understand things, and the other people merely waste their breath and spend the time of the House and do not contribute anything specially or directly although they represent the people. That sort of attitude I do not very much like. I hope that Dr. Ambedkar would give us a patient hearing and I would urge on him, on behalf of large number of people who have no voice and who do not understand their rights or what is going on in this House, that there should be no hurry in this matter. I should like the consideration of this Bill to be positioned and the whole subject taken up and settled once for all.

As Mr. Sonavane rightly remarked, nowadays, many people are leaving their homes and there is a large transfer of

population. A lot of people from Madhya Pradesh have come and settled more or less permanently in Delhi. If you do not include, for instance, the *Mahars,* and some other Scheduled Castes who have come here permanently they will lose their rights. All these questions will have to be investigated because it is not a temporary thing. This is something which is going to be embodied in the Constitution; this is more or less a permanent thing which we expect to last for a long number of years. In these circumstances, spending a few more days on consideration of this Bill is not waste of time; it would be time well utilised, Therefore, I submit there should be no hurry in passing this measure. By merely passing this Bill, we are not going to go ahead much.

There are many difficulties. I am really doubtful whether we would be in a position to hold the elections in November or December next, because the delimitation work is going to be a great headache. There are great differences between what the Election Commissioner is going to do and what the Delimitation Committees have decided. You cannot rush such things in this House over the shoulders and decisions of the Delimitation Committees and have elections anyhow. There are many more difficulties which are going to take time. If that is going to happen, there should be no undue haste in passing this Bill and shutting out representation to people who would like to be included in the schedules to this Bill. I have been able to table an amendment in the case of two castes; but I am sure there are many more who would like to be heard and represented. I urge that the whole thing should not be done in a piecemeal fashion in which it has been done. It would be much better to have a consolidated measure so that the kinds of objections that have been raised here will not come forward hereafter. I shall move my amendment, and I hope the Hon. Minister would accept the same.

Shri R. Velayudhan (Travancore-Cochin)**:** It was not my desire to speak on this Bill because I thought there was no scope for any controversy over it. I am very glad that the hon. Speaker who presided before gave the ruling that matters that have happened outside this House have no proper place in the discussion on the Bill now before the House. I wish, however,

to confine myself to one or two points to which some hon. Members have already referred, because I think this is the only proper occasion to ventilate some feelings regarding Scheduled Castes as the same was done by others.

Not only this House, but the whole country is abundantly interested in the problems of the Scheduled Castes. Many of us who represent these classes in this House would not have been here but for the great work done under the leadership of the Father of the Nation, Mahatma Gandhi. At the same time, I must not omit to mention the great services that have been rendered by our great leader Dr. Ambedkar. I think Mahatma Gandhi, Mr. Jinnah and Dr. Ambedkar are the three personalities who have commanded the greatest admiration...

Shri Sonavane : And have divided the country.

Shri R. Velayudhan : ...and respect of the people and who have been able to shape the destinies and thoughts of people in this century.

Shri Sonavane : On a point of order, is all this relevant to the Bill?

Shri R. Velayudhan: Yes.

Mr. Chairman: The hon. Member who raised the point was heard uninterrupted. I think he would extend the same privilege to other Members also.

Shri Sonavane : My point of order has not been decided.

Mr. Chairman: The hon. Member may go on.

Shri R. Velayudhan: I am not going to enter into any controversial point. But, I must say that the Hon. Dr. Ambedkar who has brought this Bill as well as the greatest of political saints Gandhiji, who have done the greatest service to the down-trodden millions, the Scheduled Caste people, have got their respective places in the hearts of many in the country. Therefore, I think it was not proper on the part of some hon. Members to take this opportunity to fling a little mud on a leader who has got the greatest following among the Scheduled Castes even at this time.

As regards the origin of this Bill I must say that the provision for the representation of Scheduled Castes in the Part C States was contemplated long, long ago. Even though the Constitution was framed by the greatest jurists and lawyers including the Hon. Law Minister, it is a matter of surprise that they completely forgot to include representation for the Scheduled Castes in the Part C States at the proper stage.

There was a lot of heart-searching and there were lot of constitutional difficulties to overcome with regard to the formulation of this Bill which seeks to give representation to the Scheduled Castes of the Part C States. There was controversy as to whether this Bill was a proper measure or not and an hon. Member even spoke yesterday in this House sounding a discordant note to the effect that there should not be any reservation of seats for the Scheduled Castes in Part C States. As for myself, I have believed and used to say even from my school days that the reservation of seats and other kinds of reservations are no panacea to the ills under which the Scheduled Castes are labouring. On that point I had my own differences with Dr. Ambedkar also. But at the same time, when you have given reservation in the Parts A and B States, it would be unjust to deny it to those in Part C States,—people who are not represented in Parliament or in the respective local bodies.

As Dr. Deshmukh has said, there is a lot of omission and there are many mistakes in the formulation of these lists of Scheduled Castes and Scheduled Tribes, not only in the Bill that is before us, but also in the order of the President for Parts A and B States. I looked into the proceedings of the Constituent Assembly touching on this point and I find that it was stated then that the list already fromulated in the 1935 Act would be accepted when it comes to the question of elections under the new Constitution. But when the President's order came out, so many castes included in that Act were excluded and we have now only a few of these Scheduled Castes and Tribes in almost all the Parts A and B States. I feel that this was not done without a purpose. This I think, was done deliberately. I mean this omission or reduction in the number of names in the list, because if they had included

all those Scheduled Castes and Scheduled Tribes that were in the Act of 1935, then the number of reserved seats would become very large. In some of the States, for instance in the Uttar Pradesh where there are 13 lakhs of *Khatiks,* they have been completely ignored in the President's list. If they are included, I think nearly 40 per cent of the seats in U. P. would go to the Scheduled Castes alone. And that is not a small thing that they should get this much in a Part A State and be able to influence the destinies and the politics of the State. Therefore, intentionally and specially and deliberately they have been excluded so as to minimise the representation of the Scheduled Castes in the State. That is the case not only in the U. P. but in some other States also. But in most of the South Indian States they have drawn up the list according to the 1935 Act. Therefore, the whole list has to be re-formulated and the promise given by the late Sardar Patel in the Constituent Assembly that the list of 1935 Act would be accepted in Parliament for the coming election, must be kept, injustice to the departed leader and also to the Father of the Nation and also to the millions of Scheduled Castes and Scheduled Tribes who have been enjoying certain privileges on the basis of caste or community.

According to the present arrangement alone can do that. For instance, I am from Madras, cannot go and contest a seat in any other State, say in Bombay. Therefore, there is this constitutional difficulty also which has to be removed by Parliament as Parliament alone can do that. For instance, I belong to the Travancore-Cochin State and so I cannot go to Bombay and contest a seat there, and that is a discrimination against my community, because non-Scheduled Castes can freely contest any seat anywhere in India according to party basis or on any other basis. Therefore it is my request not only to the Government but also to Parliament to rectify these constitutional anomalies as soon as possible. My submission is that most of the castes dropped from the former list will have to be included and a fair list drawn up so that the reservation given to the Scheduled Castes and Tribes may be on a just and fair basis. Otherwise let us drop the thing altogether and we will fight our battles on equal footing with

the rest. I have got great hope for the future and I believe in a bright future for my community. They are the down-trodden and the future is for the under-dog. Therefore, I am not hopeless. I am not without hope. Dr. Ambedkar might feel pessimistic, but as far as I am concerned, and as far as the youths of the Scheduled Castes are concerned, we have courage enough to fight on equal footing our battle of liberation.

Mr. Chairman: Order, order. Is the hon. Member opposing the Bill or supporting it?

Shri R. Velayudhan: I am not opposing this Bill at all, but only requesting that the list drawn up should be changed where necessary after verification with actual facts. With this request, I support the Bill.

Shri Deshbandhu Gupta (Delhi)**:** I rise to support this Bill. The Bill merely seeks to ensure representation of Harijans in the House of the People from the Part C States and there can be no objection to this from any part of the House. But I would like to point out that the reason given by Dr. Ambedkar the Mover of this Bill that this was not defined when the Representation of the People Bill was before this House does not seem to be quite correct. This reservation is after all a temporary reservation for a period of ten years and perhaps it was thought desirable to leave out some areas without this reservation so as to see whether Harijans could be returned to the House of the People without reservation. (*An Hon. member:* Very doubtful.) My friend says very doubtful. I am not prepared to have a bet with him on that. But I can say that so far as Delhi is concerned I would like the Mover of the Bill and other friends to realise that Delhi and Ajmer were the only two places, even under the old regime, which enjoyed joint electorates, whereas throughout the country there were separate electorates and reservations of seats on that basis. I need hardly remind the hon. Mover and other friends who feel like him that Delhi had returned to the Central Assembly through joint electorate, the candidate belonging to the minority community and that too in the teeth of opposition from reactionary elements. Although opposition

forces from all parts of India were concentrated in Delhi to oppose the Muslim candidate put up by the Congress, Delhi was able to uphold the principle of joint electorates and had returned the minority community candidate. I would have considered it a privilege if Delhi and other Part C states were allowed the opportunity to return Harijan candidates without reserving seats for them. That would have given us also an idea as to what will happen after ten years when all such reservations will go. But my friend the Mover of the Bill, who unfortunately has always held a different view, has thought it fit to bring this Bill. Now that the Bill has been brought forward I support the Bill, for there can be no opposition either in principle or in substance so far as this Bill is concerned.

I would however like to make one or two observations. Reference has already been made by more than one Member to the speech which was delivered by the Hon. Minister the other day. I do not wish to make any comments on that but for his information I would like to point out that delhi was the headquarters of the All-India Dalitodhar Sabha, even before the congress had included the removal of disabilities of the depressed classes in its programme in 1921. This Sabha was founded by the late Revered Swami Shraddhanand. It was he who had moved the resolution in 1920 in Calcutta Session of the Congress to include the removal of disabilities of Harijans in the Congress programme. Even earlier in his address as Chairman of the reception committee of the Indian National Congress session held at Amritsar after the Jallianwala Bagh tragedy, he had raised the question of the disabilities of the Harijans and had persuaded the Congress to recognise its importance. It would have been in the fitness of things if the Hon. Minister who undoubtedly has worked for the uplift of Harijans and holds a very high place as a Harijan leader, had recognised this fact. But unfortunately his policy and his angle of vision have been quite different. If I were to refer to the history of the struggle for the uplift of the Harijans in Delhi.....

Mr. Chairman : I would invite the attention of the hon. Member to the fact that, when the hon. Speaker was in the

Chair, he gave us a ruling that references regarding the speech of Dr. Ambedker need not be made here *in extenso* except by way of a few preliminary remarks. Therefore, I would request the hon. Member to speak on the merits of the Bill.

Shri Deshbandhu Gupta: I have practically made no reference to that. I was only trying to make out that even without the proposed reservation of a seat Delhi would have returned a Harijan candidate. My hon. friend has made an unfortunate speech at a time when this Bill was coming before Parliament but I have purposely avoided making reference to it. I only wish to tell him that coming as he does from Bombay very probably he does not know the conditions prevailing in Delhi. All that he has done is that he has tried to treat the entire population of Delhi as Harijans. That is the contribution that he has made to the Constitutional advancement of Delhi. On that my friend can certainly congratulate himself, as that is one way of equalising. Instead of raising the status of Harijans he has tried to lower the status of non-Harijans and brought them both on the same political level. I want him to realise that in 1921 and even earlier in Delhi, the foreign Government, of which he is so much enamoured today, was using and exploiting the Harijans against the best interests of the country. A big all-India depressed classes conference was held in September 1921 in the People's Park to mobilise support to welcome the Prince of Wales in those days, when the whole country was against it. In spite of this attitude of the depressed classes leaders the movement for the uplift of Harijans which was started by the late Swami Shraddhanand continued as they felt that the removal of disabilities of the Harijans was a matter of duty with them and not a question of doing any favour to the Harijans. Swami Shraddhanand in Delhi was attacked by the supporters of the old British Government—in which camp most of the people who were following the lead of my hon. friend were then—while he was leading a procession to have temples and use of wells thrown opened to Harijans. All that is part of history and should not be forgotten. Therefore, I would have thought a privilege, if at least Delhi had been left out of this Bill and given an opportunity to return Harijan without there being any

reservation. That would have also proved that after ten years there would be no difficulty in returning Harijan Candidates when there will be no reservations. With these words I support the Bill. I assure my hon. friend, whether this Bill is there or not, that Harijans in Delhi enjoy an equal status. Most of the disabilities about which he has been complaining may be in existence in his part of the country. So far as these areas are concerned there is no political motive behind the social work done by social reformers like Swami Shradhanand, and late Lala Lajpat Rai and other Aryasamaj leaders. They had dedicated their lives to it and this fact should be recognised while passing this Bill.

Shri Dwivedi: (*English translation of the Hindi speech*). So far as the principles of this Bill are concerned. I support it because for more than once I have made suggestions in this House to provide for the representation in Part C States of the Scheduled Castes and the Scheduled Tribes. What I wish to say is that so far as the administration and development of Part C states are concerned, that issue should have been brought in this House even before this Bill was moved. But not realising the significance of that Bill, the Government hurriedly brought forth the present Bill. That goes to show that the Government are not so much keen about the representation of the people and the introduction of necessary reforms for establishing a democratic type of Government, as about this Bill. Anyway, I would support the present measure; but, all the same. I would like to explain a couple of things to the House. In the first place, I would like to say, as the previous speaker Shri Deshbandhu Gupta said in regard to Delhi, that we would have elected Harijan representatives even without this Bill. Then alone could it have been said how generously we treated the Harijans. In Vindhya Pradesh the Congress and the public workers have been treating the Harijans and the caste Hindus alike, and, as Shri Deshbandhu Gupta said, in Delhi they had already got opportunities of representation. In view of the fact that in Vindhya Pradesh untouchability has long been removed from the schools as also in the day-to-day intercourse and that Harijans there are loved by all alike and get due representation, there is no

reason why a separate legislation should now be enacted for them. Now that such a Bill has come before us, I welcome it, but, all the same, I wish to mention a couple of things in this connection. Firstly, out of the six seats in the House of the People allotted to Vindhya Pradesh, one third have been reserved for the untouchables—Scheduled Tribes and Scheduled Castes. But unfortunately the people of Vindhya Pradesh are so illiterate and backward that only a limited number of such persons will be available as may be able to discharge their duties and represent their people properly in Parliament. Such is not the case with the Harijans alone; even Caste Hindus suffer from illiteracy. Shri Thakkar Bapa had once remarked that mass literacy should have preceded adult franchise. We did never raise any question in regard to education. While in Delhi new schools have been opened and arrangements made for their education and educational facilities extended to rural areas too, but no steps have been taken in this regard in Vindhya Pradesh. One of the speakers who spoke before me, Shri Sonavane, strongly supported this Bill. I also agree with him. May I ask whether in his speech he at all referred to the absence of any arrangements for the education of the people of the Scheduled Castes and Scheduled Tribes? Today they are devoid of even the prime necessities and comforts of the modern life. In places like Kherua, a poor labourer is paid at the rate of only four annas per day, while contractors get contracts at nearly double the rate. The better course, therefore would have been that the hon. Members, who are supporters of the cause of Harijans should have personally visited those places, taken some positive steps to improve their conditions and approached the Education Department of the Government for providing them with educational facilities. As a matter of fact they are only keen about their own interests—that they should be elected here as their representatives—and do not care for the interest of the Harijans. Unless they do some material work for the uplift of the Harijans, I would not approve of mere idle talk as it can do no good to the country. We should promote education among our brethren—the people of the Scheduled Castes—whom we consider to be our own, so that after being elected to Parliament they may be

able to discharge their duties properly; otherwise, there is no use in electing them.

Mr. Chairman: Does the hon. Member propose to take a long time?

Shri Dwivedi : Yes Sir.

The House then adjourned for Lunch till Half Past Two of the Clock.

The House re-assembled after Lunch at Half Past Two of the Clock.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

Shri Dwivedi: Sir, you might have heard whatever few observations I made before the House. What I particularly mean to say is that the Government have classified the States into various Parts in the manner in which the entire society has been broken up into many categories, *viz., Savarna, Avarna,* Scheduled Caste, Scheduled Tribe and so on.

Shri Amolakh Chand (Uttar Pradesh)**:** The Hon. Minister is not here.

Mr. Chairman: He will come soon.

An Hon. Member: Let somebody deputise for him.

Mr. Chairman: He will be coming in a minute or so. Let the hon. member proceed.

Shri Dwivedi : What I was going to say is that States too have been classified into various parts in the manner in which people have been divided into Scheduled Castes or Scheduled Tribes etc. I want to ask the Hon. Minister why does he not contemplate to bring a legislation in respect of the various Parts referred to in the present Bill in the manner in which he has presented the Bill regarding the Scheduled Castes and the Scheduled Tribes.

Shri Sivan Pillay (Travancore-Cochin)**:** On a point of order, Sir. The treasury Benches are vacant.

Mr. Chairman... The Hon. Minister is likely to come very soon.

Shri Dwivedi: I think I can continue.

Mr. Chairman: Yes.

Shri Goenka (Madras)**:** Who will listen?

Shri Dwivedi: I suppose what I say will be noted in the proceedings. As for example cerain portions of Vindhya Pradesh have been merged into other States as enclaves. Rampur, Tehri Garhwal and certain other States have been given due protection in the Legislative Assemblies of the States concerned as also in Parliament, but no attention has so far been paid to those enclaves of Vindhya Pradesh which have been referred to in this Bill.

Shri Goenka: They have been complaining that there is no one on the Treasury Benches.

Dr. Ambedkar: The Treasury Bench is quite unnecessary for the House.

Shri Dwivedi: Since a legislation has already been brought forth for the Scheduled Castes, Scheduled Tribes etc., it should have been our first concern not to treat those merged enclaves like some packages that can be placed according to ones wishes. These enclaves should also get due representation in the States Legislative Assemblies.

Now, Sir, I wish to divert your attention to a very important legal issue. In clause 2 of Article 330 of the Constitution, it is stated:

> "(2) The number of seats reserved in any State for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State in the House of the People as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or Part of the State, as the Case may be, in respect of which seats are so reserved, bears to the total population of the State."

What I want to say in this connection is that since there has been a clear mention regarding the allotment of seats, including those of Part C States, in the Act XLIII of 1950 and since clause 2 of article 330 of the Constitution clearly states that the seats will be allotted in proportion to the population,

there seems to be little reason why this legislation should be brought forth. Article 341 of the Constitution specifically mentions that:

> "(1) The President may, after consultation with the Governor or Rajpramukh of a State, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State."

Similarly a provision has been made in article 342 with regard to the Scheduled Caste. I want to know what is the necessity of introducing such a measure when the President is empowered, *vide* article 341 and 342, to do so by a public Notification. If article 330 provides for any such legislation for the Scheduled Castes then that legislation has already been enacted and in case it does not provide for one, the Constitution does not indicate any necessity of enacting such a legislation. Therefore as the hon. Member speaking before me said, this Bill is superfluous. That is why I would like the Hon. Minister to pay his attention to this legal intricacy so that it may not give rise to any legal clash later on in the Supreme Court. The Hon. Minister is an eminent legal expert and as such is in a better position to study the situation, that this legislation does involve legal complexities. I hope he will throw light upon the subject and, if necessary, either amend the Bill accordingly or withdraw it after its consideration because, as Shri Deshbandhu Gupta said and the representative of Vindhya Pradesh also supported him there seems to be no such condition that the Scheduled Castes and the Scheduled Tribes will get representation only by enacting such a legislation. Representation will be provided to them even in the absence of any such measure. It is my duty to draw the attention of the House to the legal intricacies involved in the present Bill.

The second thing is that the Hon. Minister may take recourse to article 82 of the Constitution. It states :

> "Notwithstanding anything in clause (1) of article 81, Parliament may by law provide for the representation in the House of the People of any State specified in Part C of the First Scheduled or of any territories comprised within the territory of India but not included within any State on a basis or in a manner other than that provided in that clause."

Parliament have the power to enact such legislation under the above article and they have already enacted one Clause 2 of article 330 clearly states that the number of seats allotted by the President to the Scheduled Castes and Scheduled Tribes will be in proportion to the population, Under such circumstances, I think there was no necessity of any Bill like this one. What is needed now is that this intricacy should be removed. As far as I could understand, the Hon. Minister has not stated anything to that effect and, therefore, I have drawn the attention of the House to this issue.

Besides this, I would also invite the attention of the Hon. Minister to the fact that when the Peoples Representation. Bill was moved here, the population of Vindhya Pradesh was nearly 33 lacs. Then a population of about two and a half lacs to three lacs was included within the bordering territories in accordance with the Enclaves Merger Act. At that time six seats were agreed upon to be allotted to Vindhya Pradesh. Now that the census has taken place. I am told the population of Vindhya Pradesh has increased by five lacs. Under these circumstances, I believe Vindhya Pradesh has every right to claim for more seats to be allotted to it. I will therefore, make a couple of important suggestions. Firstly, it should be considered, if possible, as to how these two seats should be allotted. It would be better that decision in this respect may be taken after having consultation with the Delimitation Committee for Vindhya Pradesh. In view of the fact that the population of Vindhya Pradesh has increased by five lacs, the number of seats allotted to it should also be increased by one by bringing an amendment to the Peoples Representation Bill.

With these words I support this Bill.

(*Translation concluded*)

Dr. Parmar (Himachal Pradesh)**:** I rise not only to support this Bill but also to congratulate the Government for giving representation to the scheduled castes and tribes in Part C States. It has been said in this House that this Bill has been brought by the Law Minister unnecessarily and for certain other extraneous reasons. I must, however, contradict this and say that what the Law Minister and the Government of India

have done in bringing forward this Bill is only an implementation of the policy which has been laid down in the Constitution.

Whatever my friends from Delhi and Vindhya Pradesh feel about this matter—and their feeling is that even without this legislation the representation of the scheduled castes and tribes would have been assured in the House of the People— I welcome this measure for certain definite reasons. I can speak with some amount of knowledge as far as Himachal Pradesh is concerned and my feeling is that in spite of all that the Central Government and the other State Governments have done, our machinery is moving so slowly that the schedule castes do not feel that enthusiasm that should have come with the Constitution. And that is all the more reason why we on our part should give a feeling, should give ample proof of our idea, of our determination to see that the scheduled castes do receive a fair deal in the next elections. What is happening in Himachal Pradesh makes it all the more necessary.

I do not want to take very much time of the House, but I will just refer to an incident or two to show how very necessary it is to make this provision. It was about four months back— on the 4th January 1951—that the Himachal Pradesh Advisory Council recommended to the Government to introduce, at least extend, the Untoucability Removal Act as it is in force in Uttar Pradesh, to Himachal Pradesh for there are a number of disabilities which the scheduled castes suffer from in those areas. I was surprised to learn from certain quarters in the States Ministry that some of them at least consider that there is hardly any necessity for this measure, for there is no such problem there as in Madras, nor is there such a serious demand from the people that it should be extended. If that is the view which is prevailing in the Central Government too, I am afraid that much that has to be done will remain undone.

When I had been to my constituency recently, a section of the scheduled castes, known as *kolis,* met me there in the interior of Himachal Pradesh in district Sirmur. They narrated to me a recent incident in which some members of that

scheduled caste of *kolis* who tried to assemble to consider some problems relating to their betterment were pounced upon by the landlords, fled hand and foot and locked up for about three days. If that is what the scheduled castes are to expect under the new Constitution, I am afraid we have to give the matter a very serious consideration. We have to admit the fact that our machinery has not yet geared itself to this new idea : they are still going along the same old rut and since not one scheduled caste is represented in the whole of the services, this sort of thing is allowed to happen. I was told of this incident not only by those people but also by people who contacted the police and the local congress committee which has taken the matter in hand with a view to doing justice to these people. But the Police feel that they will not be able to prosecute the offenders as no evidence will be forthcoming because those scheduled caste people, who are tenants, have been told that if they give evidence against the landlords, they will be howhere and that their lands will be taken away from them. That is why I feel that they should have representation, so that one of them at least will have a chance of coming here and expressing what they feel about the state of affairs. That will have a reaction on people who have not changed and who do not see the writing on the wall. I personally feel that unless we solve this problem, solve it of course in a spirit of friendship, unless this discrimination is done away with, the social order will go to pieces. I personally feel very strongly on this measure has been brought none too early.

Shri P. Y. Deshpande: (Madhya Pradesh)**:** I wish to draw the attention of the Hon. the Law Minister and of this House to certain legal aspects which have so far escaped notice. This Bill proposes to amend the Representation of the People Act of 1950 and it is brought forward with the object of providing representation to scheduled castes and scheduled tribes. My submission is that this has already been provided for in the Representation of the People Act, 1950. Section 3 of the Act, which is sought to be amended, provides for the

allocation of seats in the House of the People, and states in sub-section (2) that "to each State specified in the first column of the First Schedule, there shall be allotted the number of seats specified in the second column thereof opposite to that State". In the First Schedule the seats have been allotted to Part C States also. The question arises, what about the scheduled tribes and the scheduled castes ? Now, that too has been provided for. In section 6 of the Act, in sub-section (2), it is stated, "As soon as may be after the commencement of this Act, the President shall, by order, determine—(a).....(b) ..... (c) ..... and (d) the number of seats, if any, reserved for the scheduled castes or for the scheduled tribes in each constituency." This section authorises the President to determine reservation even for scheduled castes and scheduled tribes. Therefore, it seems to me that this Bill is altogether unnecessary. There is the Constitutional mandatory provision in article 330. The Representation of the People Act, 1930 goes further—in fact it implements that Constitutional mandate and provides seats for Part C States and also provides for representation to scheduled castes and scheduled tribes. Therefore, it seems to me there is only one matter which is left rather in doubt. And that is the specification of the particular castes and the particular tribes which would be entitled to be recorded as such. That could be done, as it has been done in the case of Part A and B States, by order of the President, not only under articles 330 and 392 of the Constitution but also under section 6 of the Act which is sought to be amended by this Bill. Although, I wholeheartedly agree with the purpose of this Bill—I do want that the scheduled castes and tribes should be represented and all doubts about their representation should be removed. There is no question about that—it seems to me that when a mere order of the President specifying these tribes and castes will do. when such an order could have been placed before Parliament and as in the case of the Part A and B States, it could have been revised, altered or modified by Parliament later on, giving enough time to the people of these States to

suggest amendments, to omit or add to the castes and tribes enumerated in the President's order—that being so. I do not see any propriety for this Bill at all. All that it seeks to do could be done by an order of the President specifying the castes and tribes and by placing the order of the President before the House and then following the same procedure as in the case of the Part A and B States. I hope the hon. the Law Minister will look into this matter and convince us that the Bill is really necessary.

Capt. A. P. Singh: (*English translation of the Hindi speech*) Sir, I am not opposed to the object of the Bill, namely, making a provision for representation of the Scheduled Castes and Scheduled Tribes. As for the many points that have been raised here, I will only say that I agree with the views of hon. Dr. Ambedkar. He himself says that Articles 341 and 342 apply in relation to Part A and Part B States only and that Articles 330 and 332 are also for Part A and Part B States. Then again, he has said that there is no specific provision of affording representation to the Scheduled Castes and Scheduled Tribes of Part C States. He admits this thing in the Statement of Objects and Reasons. Now, he finds that because it is necessary to reserve seats for these people, they must therefore be given representation by enacting legislation in the Parliament, that is to say he wants special powers for the Parliament to do it. That is the object for which he has brought this Bill before the House.

In this connection, my submission is that he himself was a Member of the Constituent Assembly when the Constitution was being framed. If we wish to find out the reasons why no provision was made for the Part C States, we must examine the spirit of the Constitution as to why the Scheduled Castes and Scheduled Tribes of Part C States were not given any representation. There must be some definite reasons for that. As far as I could make out, the entire population of Part C States were treated as Harijans for the reason that they have all been regarded as backward people. This right or reservation of seats is given to the Scheduled Castes and Scheduled Tribes

only because they are a backward class and since the people of those States have been treated as backward class, no provision has therefore been made to give separate representation to them. So, when there is no such provision, should we agree that they should not be given any rights and that there should be no separate representation for the Scheduled Castes and Scheduled Tribes? My submission is that there is another section in the Constitution which makes such a provision and they should be given these rights under that article which, I believe, is meant for Part 'C' States. They are Articles 239 and 240. Sir, I would like to draw your attention to Article 240, according to which these people can be given this right. Article 239 deals with special powers and Article 240 says :

> "(1) Parliament may by law create or continue for any State specified in Part C of the First Schedule and administered through a Chief Commissioner or Lieutenant-Governor—
>
> (a) a body, whether nominated, elected or partly nominated and partly elected, to function as a Legislature for the State; or
>
> (b) a Council of Advisers or Ministers, or both with such constitution, powers and functions, in each case, as may be specified in the law.
>
> (2) Any such law as is referred to in clause (1) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending the Constitution."

That is to say, according to the Constitution, we can make change, if necessary, under this article. But in that case one thing is certain and it is that we will have to give more rights to the people in Part C States. It would have been better had hon. Dr. Ambedkar brought forward a clear measure, just as he has declared in the case of Part B States that Part VI with the undermentioned amendment will apply to them, to the effect that the Part VI with the following modifications will apply in relation to Part C States as well. I wish to draw the attention of the Hon. Dr. Ambedkar to that. It is as follows :

> "The provisions of Part VI shall apply in relation to the States specified in Part B of the First Schedule as they apply in relation to the States specified in Part A of that Schedule subject to the following modifications and omissions, namely:"

Similarly he could have provided the following:

> "The provisions of Part VI shall apply in relation to the States specified in Part C of the First Schedule as they apply in relation to the States specified in Part A of that Scheduled subject to the following modifications and omissions, namely:"

If a Bill having this object and purport and which could also provide that all provisions of Part VI would be applicable, had been brought, it could automatically have solved this problem of Scheduled Castes and Scheduled Tribes. But he has chosen a different path and wants to enter through the backdoor. He does not take the simpler and a more direct course, which every hon. Minister has the option to adopt and which he must do. Dr. Ambedkar might probably say that it is the concern of the Ministry of States and not his. The Hon. Minister on several occasions, during my talks with him, expressed this view. But I take the Government as a whole, may he be Dr. Ambedkar or Shri Ayyangar or the Minister of Home Affairs. All that I want to submit is that such a Bill would have been much better. But in failing to do so he has put the cart before the horse with the result that people are complaining all round. He should now postpone this Bill and bring forward a Bill which would give all powers enjoyed by Part A States to Part C States. Then this object would automatically be fulfilled. At present he is not working according to the Constitution because, by this Bill, he is giving rights only to the Scheduled Castes and Scheduled Tribes. But we all are Harijans and so before taking this step, all other people must be made distinct from Scheduled Castes and Scheduled Tribes, that is to say they should first be given more rights as is the case of Part A and Part B States. He should first do this and then only bring such a measure, otherwise, in my opinion, it is of no use.

It would take a long time to deal with its details and to describe its reasons. Shri Ayyangar has also stated in his speech that so far as Himachal Pradesh and Vindhya Pradesh are concerned, a Bill will be soon coming for them. It is being framed and we are on the Standing Committee. The Committee has considered it and although it is very unsatisfactory at this time but we hope it will be improved upon to the satisfaction

of the people. Now, it is said that Delhi should also be allotted one seat. As for Delhi, I submit that there should be no hitch to give this right to it. It is said that since it is the capital of the country, it cannot be given this right. Sir, I would submit that Calcutta too had a Lieutenant-Governor when it was the capital of India but the people of Calcutta enjoyed full rights. Then again, taking the case of Simla, it used to be the capital of India for some period of the year and being situated in Punjab, the Lieutenant-Governor also used to live there, but there had never been any difficulties about the two Governments functioning from the same place. Therefore, I am at a loss to comprehend the argument put forward that the people of Delhi should not be given this right on account of its being the capital of the country. I for one, feel that the people of Delhi should be given more rights because they are living in the capital itself. Shri Ramchandra had said : *Sab te priya mohi yahan ke basi, mum dhamda puri Sukhrasi.* (I love most the people of my own place which is the land of wealth and prosperity). He had said it for the people of Ayodhya. So when there is so much of hesitation in giving rights to the people of Delhi, I am afraid, other people will have to face even more difficulties. Therefore, in my opinion, it is most desirable to keep the people of Delhi contented as it is the capital of the country and it will not be wise to dissatisfy them in any way. It would have been more proper had we arranged to hold a plebiscite of the people of the area which we are administering.

Mr. Chairman: May I draw the attention of the hon. Member to the fact that we are not discussing the problem of Delhi but we are discussing the Representation of the People (Amendment) Bill ?

Capt. A. P. Singh : Since it is being enforced in Delhi also, I thought I might refer that Delhi should also be given these rights which we are going to have. I meant only that. Anyway, if it is so, I will not discuss that. My submission is only as to why smaller States like Manipur and Tripura should be refused these reforms of introducing responsible Governments. Aundh is one of the smallest states but it was the first state to have a responsible Government. Therefore I see no reason why other small States like Manipur and Tripura be deprived

of a responsible Government and why a responsible type of administration be not established there. There are so many other States where a responsible administration does not exist but I have no time to speak about them.

The next point which I would like to submit is with regard to the population of Harijans in Vindhya Pradesh. How much is that? No figures have been given about Scheduled Tribes. But it seems that the population of both comes to about, nine lakhs, that is, a little less than one-fourth of the total population. But they are being given one-third of the total seats allotted, that is to say, two out of six seats are being given to them while their population is less than even one-forth. If Hon. Dr. Ambedkar deems it proper, and it is my personal request to him, he should allot one more seat to Vindhya Pradesh so that the population ratio may be adjusted to a greater extent. Although I have not submitted any amendment to that effect, but it is my request to him and it would be better if he agrees to do it. I submit to hon. Dr. Ambedkar that if he thinks it proper he should withhold the present Bill and bring another Bill to that effect. If he is agreeable to do it, I can submit my own Bill to him which I have already drafted in a comprehensive manner. It will be a small Bill saying that more rights should be given to Part 'C' states and that responsible Government should be set up there. If it is done, I believe the problem will automatically be solved. That is all I have to say.

(*Translation concluded*)

Mr. Chairman : I think this has been sufficiently discussed. I therefore, propose to call hon. Dr. Ambedkar to speak.

Dr. Ambedkar: Yesterday when Mr. Kapoor raised a constitutional question that in view of certain articles in the Constitution, this Bill was unnecessary and that I had brought this Bill for some other motive, I myself did not believe that Mr. Kapoor believed in his argument.

Shri J. R. Kapoor (Uttar Pradesh)**:** You never believe in a fact.

Dr. Ambedkar: It seems to me that his argument has caught on and it has been repeated by several Members today on the floor of this House.

[MR. SPEAKER *in the Chair*]

It is therefore incumbent on me to repel the suggestion which has been made in the course of this debate that this Bill is uncalled for. hon. Members have referred to article 330 on which they have built their main argument. It is quite true that article 330 refers to the reservation for the scheduled castes in the House of the People. What we are considering in this Bill is the reservation of seats in the House of the People for the scheduled castes in certain Part C States. As I said, it is therefore relevant that this article should be referred to. It seems to me that hon. Members who have relied upon article 330 seem to have altogether forgotten that the basis of representation of the scheduled castes must be the enumeration or the definition of the scheduled castes. Unless and until we knew what the scheduled castes are and what their total population is, it is absolutely impossible for anybody to make any provisions for the practical and factual representation of the Scheduled Castes. The question, therefore, is this : Is there any provision whereby it is possible for any authority except Parliament to make a list of the scheduled castes so that we might know what they are, and also their population? For that purpose, it is necessary to refer to article 341. This is what article 341 says :

> "(1) The President may, after consultation with the Governor or Rajpramukh of a state, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State."

A similar provision is contained in article 342 which relates to scheduled tribes. There is a proviso contained in sub-clause (2) of article 341 and sub-clause (2) of article 342 which prevents the President, after having once made the order, from modifying it. The power to modify the order has been expressly reserved to Parliament. It is necessary to read very carefully the words of article 341 and article 342. No doubt, the President is empowered to issue a notification; but, there is a very important condition attached to his power to issue a notification. That condition is that he can issue it only after consultation with the Governor or Rajpramukh of a State. Any

one who reads the Constitution will know that by making reference to a Governor or Rajpramukh, it is quite clear that what is meant is states in Part A or States in Part B. Because, it is only in States in Part A or Part B that you find the institution of a Governor or Rajpramukh. If article 341 also stated in specific terms that the President can issue such a notification in consultation with the Chief Commissioner, undoubtedly, the President could have been presumed to have been empowered by the Constitution under articles 341 and 342 to issue a notification with regard to States in Part C also. Unfortunately, or fortunately, such a clause was not put in article 341.

My. hon. Friend who spoke last asked that I must explain as to why the Constitution did not make any provision giving the President the power to issue a notification with regard to the scheduled castes in Part C States. I think those Members, who took part in the discussion of the various articles when the matter was before the Constitutent Assembly, will recall that this question was a matter of great controversy. Everybody felt that politics might enter into this field, that the President might be advised for political reasons to omit a certain community, that the President might be advised to add a certain community because of its political affiliation. Consequently, we had to draft this article with the greatest care and attention. It was also insisted that once the President had made the order, he should not have the power to alter it, because, there again, politics might enter. This is evident from the fact that in both the articles clause (2) was introduced, because it was felt that once the order was made, if any change was demanded, that change ought to be made in the open House, by the House, with the knowledge of the scheduled caste Members of Parliament. That was the reason why these articles were drafted with such meticulous care.

My point, however, was this. The argument of my hon. friends who said that this Bill was unnecessary is based upon a complete misunderstanding and misreading of article 341. As I stated in my opening remarks, it is absolutely impossible to devise any kind of scheme of reservation for the scheduled castes unless two things are known : who the scheduled castes

are and what their population is. As I said, if this matter was covered by article 341, then it would have been quite unnecessary to come to this House for making provision for representation of scheduled castes in Part C States. Because, then the President would have the same power as he has with regard to the scheduled castes in Part A and Part B states to determine the Scheduled Castes in Part C States and their population so that the Election Commissioner could easily proceed to delimit the constituencies. Therefore, my submission is that there is no substance in this argument that this Bill from a constitutional point of view is unnecessary.

My hon. Friend Mr. Deshpande has challenged me on another ground that this matter is already covered in the former Act called the Representation of the People Act, 1950. He has referred to section 6 of that Act where it is stated that the President may determine among other things, "the number of seats, if any reserved for the scheduled castes or for the scheduled tribes in each constituency ". Here again, he seems to be suffering from one fallacy. This Act has reference to the order issued by the President with regard to the scheduled castes and scheduled tribes in Part A and Part B States. This section 6 could have no reference to or relevance to a case where the scheduled castes or the scheduled tribes have not been notified by the President. It is only when the President can notify that this section can be attracted. What we are doing now is to enact a list of the scheduled castes and the scheduled tribes in the various Part C States where we propose to reserve seats for them. Therefore, my submission is that his argument too is based on a complete misunderstanding of the provisions of that particular Act.

There is, I find, no disagreement on the question that provision should be made for representation of the scheduled castes and scheduled tribes in Part C States. So far, so good. Two Members from Vindhya Pradesh have said that by taking two seats, one for the scheduled castes and one for the scheduled tribes, the general representation has been cut into too much. *Prima facie,* I am not prepared to accept that argument. That argument seems to be founded on the supposition that all the six seats were to ensure to the benefit

of the caste Hindus. I am not prepared to accept that argument. Those seats have been given to Vindhya Pradesh not only for the caste Hindus but for all other people who are resident in those States. They have appealed to me to see if the quota of seats allotted to Vindhya Pradesh in the House of the People may not be increased by one. You know that in the Constitution a definite maximum limit has been placed for the House of the People and I believe it is about 500. It is quite obvious that I could not increase the quota of representation of Vindhya Pradesh if the thing is going to offend against that maximum which would be quite impossible and unconstitutional. It is quite possible that other Part C States may also claim an enlargement of their quota because they may also claim the same sort of treatment. It is therefore difficult for me to commit to any such proposal as has been put before me. All that I can say is that I will look into the matter and see if something can be done. Beyond that I do not propose to say anything.

Then, my friend from Vindhya Pradesh drew my attention to article 240. His argument was that instead of taking action under article 240 I was proceeding under some other articles of the Constitution. Well, I know he will agree that the articles under which I am proceeding are perfectly legitimate. The reason why he wants me to act under article 240 he knows very well and I do not wish to expose the thing more than is necessary. All that I need tell him is this, that it is unnecessary for me to refer to article 240 because my problem is very different. My problem is to provide for the representation of the scheduled castes and scheduled tribes in Part C States in the House of the People. My present problem is not to find representation for the scheduled castes and scheduled tribes in any local assembly or a Parliament that may be devised hereafter. When the Government of India will take action to satisfy my friend for the purpose of establishing some local legislature, then undoubtedly article 240 will be resorted to and provision will be made for the representation of the scheduled castes and scheduled tribes therein also. But for the moment, it is not necessary for me to resort to article 240.

Then, much criticism has been levelled against the list of the scheduled castes. Well, I do not know how one can satisfactorily deal with a matter of that sort, because anybody in the Government of India dealing with a matter of this sort as to what community is a scheduled caste community and what community is not a scheduled caste community, must necessarily depend upon the local information furnished to the Government of India by their officers and other agencies who are conversant with the matter. It is quite possible that the information supplied to the Government of India by their agency differs from the information which hon. Members have. Government, therefore, has to come to its choice necessarily relying on the information of its own officers. If any hon. Member can prove to my satisfaction that in the list that we have prepared, there has been any grave error or omission. I shall certainly consider the question. My friend Dr. Deshmukh of course, is very discontented, I think with the Government and thinks that the Government is always rushing through matters. I do not know how long he would like each Bill to take—probably a fortnight—and I do not know whether he would be satisfied even with that time. He expatiated a great deal upon the inadequacy and the errors of the list. My friend Dr. Deshmukh will permit me to say that as a member of the Round Table Conference, I had a great deal to do with the preparation of these tables. I had a great deal to do with it. We had before us a very grave problem. That problem was that in the census reports, right from 1910, if he will refer to them he will see, that certain classes were shown separately and they were called "depressed classes". When the question came at the Round Table Conference for giving representation to these classes, the question arose what was meant by the "depressed classes". There were a large number of people who were economically and educationally backward but who in the technical sense of the word were not untouchables. There were certain communities like the *mangarudis* for instance, who were criminal tribes put were not untouchables in the technical sense of the word; they were practically outside the pale of society and yet were not untouchables. The question was then considered at great length—Are we going to give

representation to the whole body of people who were in the census designated as "depressed classes", which would have meant a very large division in the share of representation of the general Hindu population, or whether we were going to cut that class into something more precise, more definite, something which represented what were known as classes with disabilities imposed upon them and not those which were merely backward? Therefore, a decision was taken that the representation should be given only to what, were really untouchables and to no others. Now, some people did not like the word "untouchables". They said, "We do not want that word 'untouchables'." So we had a term known as the "excluded classes". That the Hindus did not like. They said: "These are our blood brothers and you must not have a terminology which would indicate that they are outside us." And so we devised this phrase—scheduled castes—and I might say that to some extent I was responsible for it. I said, if you do not want the word untouchables, and if you do not want the term excluded classes, then have this term of scheduled castes. After all, they will have to be scheduled. Consequently the enumeration which is contained in the 1935 Act Order in Council for scheduled castes has been drafted with the greatest care and attention and I have no doubt in my mind that there is no community which is omitted from it which as a matter of fact ought to have been included, nor added any which ought not to have been added. It is as exact a classification as one could make. I may tell my friend Dr. Deshmukh that while sitting here I was myself making some mathematical calculations in order to find out what variations there were from the list contained in the Order in Council following the Government of India Act, 1935 and the list produced or rather notified by the President. Now I find that so far as these lists are concerned, this is the position. Unfortunately here it is done in the alphabetical order while there it was shown presidency-wise. Well, in Assam there are 15 communities listed in the order issued by the President. I do not find that any single community which was included in the Order in Council has been omitted. All of them are there.

You take Bihar. There again there are really 14 communities listed in the Order in Council under the Government of India Act, 1935 and here the number of communities that have been listed as scheduled is 21. What they have done is this. In Bihar certain communities were untouchables throughout the province but certain other communities were untouchables in parts of districts and not in others. Consequently they were listed separately. Probably the Home Department in making the notification thought that it was much better not to make this territorial distinction but to treat all of them as untouchables irrespective of the territorial distinction.

Take Bombay. There is no change at all. The old Order in Council mentions 34 communities. In this notification the communities listed are 36, which is two more.

I do not think it is necessary for me to go over the whole list. So far as Part A States are concerned I do not think there is any ground for complaint. With regard to Part B States it is not possible for me to give any such assurance, for the simple reason that no such lists were prepared under the Act of 1935 for Part B States. Consequently the lists are very new and it is possible that some errors might have crept in. I quite see that an important community like the *Ballia* whom I know, is not to be found in the list. So with regard to Part B States I have no basis for comparison. So far as Part A States are concerned the list is a fair list.

My friend referred to Delhi and produced some paper issued by the Union Public Service Commission. It is quite true that a larger number is mentioned in the list but I have checked it up, and I am prepared to say that compared to the list we have included in this Bill, I think you might as well say that, about 90 per cent, are included in our list. Some of them seem to me to be duplicate names, the same community called by two different names.

Dr. Deshmukh: Only 39 out of 64.

Dr. Ambedkar: Some people are called *Ramdasias* as also *Ravidasias*. Some others are called *Dhanuk* and *Dhanu*.

It is very difficult to know whether they are two communities or one community with two different names. I am prepared to rectify this by omitting the word "or" and numbering them as though they were separate communities.

Then an hon. Member wanted figures. But I may tell him that we have been very meticulous in seeing that the proportion is very accurate.

I do not think there is any point made in the course of the debate which I have not dealt with. With these words I commend the motion.

Shri Ethirajulu Naidu : I would like to have a clarification from the Hon. Minister. Scheduled castes and tribes are in a way defined by articles 341 and 342, but only in respect to Part A and Part B States and there is no corresponding provision in the Constitution of scheduled castes and tribes in Part C States. It is a matter of doubt whether Parliament can by law define a term used in the Constitution. (*Dr. Ambedkar:* of course.) Is it not necessary that action should be taken by the President under article 392?

Mr. Speaker: The hon. Member is agitating the same point. If he coolly considers the reply of the Hon. Law Minister I think he will find the answer.

The question is :

> "That the Bill further to amend the Representation of the People Act, 1950, be taken into consideration."

The motion was adopted.

Clause 2—*(Insertion of new section 3A etc.)*

Shri J, R. Kapoor: I beg to move :

In clause 2, for the proposed section 3A of the Representation of the People Act, 1950, substitute:

> "3A. for the purposes of reserving seats in the House of the People under the Constitution of India, the castes specified in the Sixth Schedule shall be the scheduled castes in relation to the Part C State under which they are so specified, and the tribes specified in the Seventh Schedule shall be the scheduled tribes in relation to the Part C State under which they are so specified."

The implication of my amendment is that sub-clause (1) of the proposed new section 3A goes off. So far as sub-clause (2) of the new section is concerned for the words "for the purposes of this Act" we shall have the words "for the purposes of reserving seats in the House of the People under the Constitution of India"……

Dr. Ambedkar : May I say that this amendment is entirely outside the scope of the Bill? What we are doing is we are reserving seats in some of the Part C States. Only so far as those States are concerned we are preparing the list. The amendment is that there shall be a list of scheduled castes for all Part C States. That is a separate question.

Shri J. R. Kapoor: I do not know how my hon. friend could put this interpretation on my amendment. I have nowhere stated in the amendment that there must necessarily be a schedule in relation to all Part C States. I am referring only to the Sixth and Seventh Schedules which are already given in the Bill itself. I nowhere seek to add a new Schedule or even to amend the two Schedules. They shall remain intact unless of course they are amended by any other amendment which may be moved and accepted by the House. All that I suggest in my amendment is that sub-clause (1) of the proposed section 3A shall be omitted and so far as sub-clause (2) is concerned for the words "for the purposes of this Act" we shall have the words "for the purposes of reserving seats in the House of the People under the Constitution of India." Why I am moving the amendment is that I am definitely of the view as I submitted yesterday and reaffirm today, that article 330 of the Constitution specifically provides that in the House of the People seats shall be reserved for every State. And the word "state" as defined in article 1 of the Constitution includes all States whether they are in Part A or Part B or Part C. The Hon. Law Minister in his reply to the debate on the Bill a few minutes ago said that while he did admit that article 330 specifically provided for reservation of seats his only difficulty was that article 330 could not be complied with until there was a specific list of scheduled castes for Part C States and since there was no such list and since none could be made according to the provisions of article 341, it was necessary to

have a separate list of scheduled castes and scheduled tribes. To that I would repeat my submission made yesterday that article 341 should have been so amended and adapted by the President as to remove this difficulty. This he could have done under article 392. But that argument did not appeal to my Hon. friend Dr. Ambedkar. I am not reiterating that argument today, but even assuming that it is necessary for Parliament to pass a list specifying the scheduled castes and scheduled tribes, my original contention does remain, that it is not necessary to provide again in this legislation for the reservation of seats in the House of the People for scheduled castes and scheduled tribes residing in Part C States. This provision is already specifically included in article 330 of the Constitution. Therefore, sub-clause (1) of the proposed section 3A is absolutely redundant.

There is another reason why we should not have this sub-clause (1) of section 3A. It not only specifically provides—unnecessarily—for the reservation of seats but it goes beyond that and fixes the number of scheduled castes representatives in the House of the People on behalf of the scheduled castes and scheduled tribes of Part C States. This, I submit, is against the Constitution itself because under clause (2) of article 330 a definite formula has been given as to in what proportion there shall be reserved seats in the House of the People in relation to scheduled castes and scheduled tribes in Part C States—they shall be in proportion to their numbers. Here the number is absolutely ignored and theoretically speaking an arbitrary number of seats is fixed, one here and one there. May be today we know definitely the specific number of scheduled castes and scheduled tribes living in a particular Part C State of Vindhya Pradesh, Delhi and so on, but we do not know what the situation may be five years hence. Only this morning my hon. friend, Shri Deshbandhu Gupta brought to our notice that quite a large number of persons from different parts of the country, belonging to scheduled castes and scheduled tribes, have come over to Delhi and, for aught we know, during the next five years there might be material change in the figures of scheduled castes and scheduled tribes in the various Part C States mentioned in

the Bill. The difficulty then will be that we shall have to amend this legislation. Therefore, since a specific formula is already provided in the Constitution itself, it is not open to this Parliament to change that formula. It is for the Election Commissioner to find out at any particular time as to how many reserved seats there shall be in the House of the People in relation to any particular State in Part A, B or C. Therefore, I submit that sub-clause (1) of the proposed section 3A is against the Constitution and is also unnecessary.

Mr. Speaker: Amendment moved :

In clause 2, for the proposed section 3A of the Representation of the People Act, 1950, substitute:

> " 3A. For the purposes of reserving seats in the House of the People under the Constitution of India, the castes specified in the Sixth schedule shall be the scheduled castes in relation to the Part C State under which they are so specified, and the tribes specified in the Seventh Schedule shall be the scheduled tribes in relation to the Part C State under which they are so specified. "

The Minister of State for Transport and Railways (Shri Santhanam): Does my hon. Friend suggest that without a Parliamentary enactment the Election Commissioner can give a specific number of seats to any specific State? It will have to be done by Parliament.

Mr. Speaker: The point, as I have been able to understand, is that the necessary directive having already been given by article 330 that representation shall be in proportion to the population, the Election Commissioner has already got the direction and it is for him to work it out, not for this House to lay down exactly what number of seats they will give to each State.....

Shri Santhanam: Sir, if I understand, it correctly, the directive is to Parliament and not to the Election Commissioner. Because the actual number of seats have to be laid down by Parliament—the Election Commissioner cannot fix the numbers.

Dr. Ambedkar: The specific article is 82 which deals with the representation in the House of the People. It says :

> "Notwithstanding anything in clause (1) of article 31, Parliament may by law provide for the representation in the House of the People of any

State specified in Part C of the First schedule or of any territories comprised within the territory of India but not included within any State on a basis or in a manner other than that provided in that clause."

We knew that the same principle could not be applied to Part C States and therefore a special article had been made.

Shri J. R. Kapoor : May I submit that article 82 has no relation to article 341? Article 82 says that so far as Part C States are concerned, the basis of representation in the House of the People, as specifically mentioned in article 81 in relation to Part A and Part B states, may be varied. Under article 81 the basis of representation is one representative for every five to 7 1/2 lakh persons. Article 81 does not refer to reservation of seats at all. Under the cover of article 82 this Parliament cannot take to itself the right of overriding the specific provision of article 330. As you rightly pointed out, Sir, under article 330 the direction has already been specifically given obviously to the Election Commissioner to do a little arithmetical calculation. It is merely a little arithmetical calculation and for that the Constitution-makers did not think that Parliament should be troubled. It is a little arithmetical calculation which can be done by the Election Commissioner and it is not open to the Parliament to make even a slight variation this way or that way.

Shri Santhanam : If you will kindly refer to article 81 (2) and (3) you will find, Sir, that all adjustments have to be made by Parliament by law. Upon the completion of each census, the representation of the several constituencies shall be decided by Parliament by law. The Election Commissioner cannot by notification allocate seats in Parliament.

Shri J. R. Kapoor: I readily agree with the proposition just now enunciated by my hon. friend Mr. Santhanam and even this time we have already passed one Representation of the People Bill. But the point we are now considering is not as to how many persons from a particular State shall be elected to the House of the People. We have already done that and we are not going to amend it, and even if we want to, we have to have a separate amending Bill for that. But all that we are considering now is this: Out of the total number

of seats which we have already fixed for representatives from Part C States, how many shall be reserved for the scheduled castes and scheduled tribes ? That is the proposition that we are considering at present and not the bigger and the general proposition of the number of seats to be given to a particular State. The limited question is how many seats are to be reserved for the scheduled tribes and scheduled castes, and for that my submission is that we have not got to pass any legislation. The directive is given under article 330 (2) and it is only the Election Commissioner's business to make a little mathematical calculation from time to time (a) to find out how many scheduled castes and tribes there are and (b) on the basis of their number, to determine how many out of the total seats shall be reserved for them. For this, it is not only unnecessary but it is against the specific provisions of the Constitution to have the proposed section 3A. Therefore, it must be deleted. Since this is obviously against the Constitution, I have raised this question. I request that the House may not be pleased to accept sub-clause (1) of the proposed Section 3A but it may be pleased to accept only sub-clause (2) and that too in the form in which my amendment stands.

One word more and I have done. If it be the contention of the Hon. Minister that it is not provided in the Constitution that seats shall be reserved in the House of the People for Part C states, then I am afraid we cannot make any such provision here, because the House of the People must be constituted strictly in accordance with the specific provisions of the Constitution. I take my stand on the plea that it is already provided for in the Constitution, but if the contention of the Hon. Minister is otherwise, then it is a very risky one and in that event we must hold that it is not open to Parliament to say anything with regard to the composition or constitution of the House of the People. It may be a lacuna in the Constitution, or it may have been left over by oversight or deliberately. But if the contention of the Hon. Minister be that there is no provision in the Constitution itself providing for the reservation of seats for scheduled castes and scheduled tribes, then we cannot help it. My own view is that provision already exists. Therefore, in order that he may not run such

a risk and in order that this question may not crop up before the Supreme Court and be contested there, I would submit that the House should accept my contention and be content with accepting my amendment.

Pandit Munishwar Datt Upadhyay: While making my submission in the morning, I had not gone into minute details, but after hearing so many speeches on the same point, I hope you might have seen that the position taken by the hon. Minister is not a sound one as far as the specification of the scheduled castes and scheduled tribes list is concerned, because this list could be prepared only by the President.

Dr. Ambedkar: No. I definitely deny that. He has no power to do that.

Pandit Munishwar Datt Upadhyay : Under article 341 it is the President who is authorised to prepare a list of these scheduled tribes and castes in consultation with the Governor or Rajpramukh concerned and that list has been prepared by the President and been published in the Gazette in respect of Part A and Part B States. But there is no list for Part C States. If there is no provision under which the President could prepare a list for Part C states, then I do not think that there is any other provision under which that list could be prepared by this House.

Mr. Speaker: Is the hon. Member prepared to go to the logical length that because no powers are specifically provided for Parliament preparing a list of scheduled castes, therefore in States other than Part A and part B there can be no recognition of scheduled castes? Is that his position?

Pandit Munishwar Datt Upadhyay: Yes. In article 330 general direction has been given and it is that according to the population of the scheduled castes and tribes the seats shall be allotted and after the allotment of seats and the delimitation of constituencies by the Election Commissioner...

Mr. Speaker: Let us leave aside the delimitation at this stage. Let us try to determine what the scheduled castes are. The other point will be the one raised by Mr. Kapoor. So, let us be clear on that point first.

Pandit Munishwar Datt Upadhyay: My submission is that there is no such provision except the one contained in article 341 where the specification of scheduled tribes and castes are mentioned in the Constitution. In the list prepared by the President in consultation with the Rajpramukh or the Governor concerned had been brought before Parliament for amendment saying that such and such castes should be added in the list for Part C States that would have been understandable ; otherwise, there is no authority vested in Parliament to have an independent Bill for providing lists of these castes for Part C States. This is my contention, unless of course my hon. friend can point out any provision in the Constitution under which he thinks that this House is authorised to have an independent list of castes and tribes on the basis of which these seats could be allotted to Part C States.

4-00 P .M.

Dr. Ambedkar: I will deal first with Mr. Kapoor's point—his amendment. He has all the time been relying on article 330 where provision for scheduled caste representation is made. His contention—if I have understood him correctly—is that that provision is sufficient not only for Part A and Part B, but also for Part C States. That is the only difference between us. My point is that a separate provision such as the one contained in the Bill is necessary : his contention is that it is unnecessary, because it is covered by article 330. I believe I have represented him correctly. That is the point .

The submission that I propose to make in favour of the course that I am following by bringing forth this Bill is just this. There is a definition of scheduled castes and scheduled tribes in article 366 of the Constitution. Clause (24) of article 366 reads thus:

> " 'Scheduled Castes' means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 to be Scheduled Castes for the purposes of this constitution."

Now. it may be open to contention that the "Scheduled Castes" referred to in article 330 are "Scheduled Castes" as defined in clause (24) of article 366. Scheduled Castes in Part C States cannot be said to be Scheduled Castes within the meaning of that clause.

Shri J. R. Kapoor : That is what my amendment seeks to provide for.

Dr. Ambedkar : I am coming to that. Therefore, it may be open to contention that article 330, which directs that representation shall be on the basis of population may not apply to Scheduled Castes which do not fall within the definition in clause (24) of article 366. That being so, it is necessary to make a separate provision for that. That is my reply to Mr. Kapoor's point.

With regard to the point raised by Pandit Munishwar Datt Upadhyay, article 82 is worded in the widest sense. It says:

> "Notwithstanding anything in clause (1) of article 81, Parliament may by law provide for the representation in the House of the People of any State specified in Part C of the First Schedule……".

My submission is this: That this power is so wide that in making provision for the representation in the House of the People of Part C States it is certainly open to Parliament to say that so many seats shall be allotted to the scheduled castes and so many seats shall be general seats. I cannot understand what more he wants by way of specific provision. If in making provision for the representation in the House of the People of any Part C State Parliament decides that there shall be a certain reservation for scheduled castes, then my submission is that it carries with it an implied power also to set out who are the scheduled castes.

Shri J. R. Kapoor: May I say one word?

Mr. Speaker : By way of reply?

Shri J. R. Kapoor: I do not know whether I have a right to reply.

Mr. Speaker: If the hon. Member thinks over the reply given by the Hon. the Law Minister just now, he will perhaps agree not to press his amendment.

Shri J. R. Kapoor : I will make one small submission and then seek your guidance on the subject.

Mr. Speaker : Let me repeat what I have understood, so that he may point out in the submission he makes whether I have committed any mistake in understanding the position.

The Hon. the Law Minister—he will correct me if I am wrong—has pointed out the difficulty, in the interpretation o the scheduled castes and scheduled tribes, which is possible and then it may land us into a very inconvenient, position The terms "Scheduled Castes and Scheduled Tribes" an defined in article 366 (24) and (25). Now, that definition specifically mentions the castes and tribes that are to be deemed as scheduled castes or tribes under specific articles 341 and 342 with the result that possibly, so far as Part C states are concerned, it may be contended that what you cal scheduled castes as defined by Parliament cannot be recognised as scheduled castes under the Constitution. In as much as article 330 gives a general direction so far as the scheduled castes under the Constitution are concerned, the cases of Part C States scheduled caste representation are not covered by article 330. Is that the intention?

Dr. Ambedkar: Yes**;** that is so.

Mr. Speaker: If that is so, then his further argument is that "let there be a superfluity, if you so call it, but why not make the position sure? " Therefore, even if it is assumed that the legislation is a superfluity, let us have it, so that no legal technicality might come in the way of the representation o the scheduled castes. He wants to make that position quite clear and leave nothing to the ingenuity of the lawyers or technicalities of law.

Shri J. R. Kapoor: Sir, the argument of the Hon Dr. Ambedkar is plausible enough indeed.

Mr. Speaker : If that is so, let there be no reply.

Shri J. R. Kapoor: The definition of scheduled castes and scheduled tribes in article 366 is not an absolute definition This definition has to be read along with the preamble or the introductory words of article 366 which run thus : "In this Constitution, unless the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them..." Obviously, therefore, the context of article 330 does not fit in with this definition of scheduled castes and scheduled tribes.

The context of article 330 obviously means that there shall be reservation of seats for the scheduled castes and scheduled tribes in the House of the People. Therefore, these definitions should not be taken at their face value.

Mr. Speaker : I may point out to the hon. Member that the position may be said to be left in doubt and uncertain in the Constitution. That is why we are going to have special legislation.

Shri J. R. Kapoor: What about the second point? Can we fix a number, and not go by the formula of clause (2) of article 330?

Mr. Speaker: If the argument is conceded that it is desirable, as a matter of safety, to have a special definition of scheduled castes for the purpose of representation in Part C States, the other thing follows automatically. The two go together. You cannot rely upon that definition for one purpose and still reject it for another.

Shri. J. R. Kapoor: Is it your ruling or your view that it is open to Parliament to reserve seats for any particular section of the community unless it is specifically provided for in the Constitution? If it is not so provided, can we do it?

Mr. Speaker: In the first place that question does not arise. It is a problematical one and the Chair should not be called upon to go on interpreting it. The matter is very clear. We are not going into the wider question of interpretation of the Constitution.

Dr. Deshmukh : Have you considered the objection raised by Mr. Deshpande which relates to section 6 of the representation of the People Act by which the number is to be determined by the President and not by Parliament?

Mr. Speaker: We are again in the same vicious circle. The interpretation of that is practically based on the same view of the article. I think we need not go into that. The discussions are no doubt very interesting and involve very interesting and very good points of legislation. But let us legislate as common people, going by common sense.

About the hon. Member's amendment, I shall put it to the House.

Shri J. R. Kapoor : If that be your view, it need not be put.

Mr. Speaker : He need not depend on my view, it may be a mistaken one.

Shri J. R. Kapoor : No. Sir, I go by your superior wisdom, particularly in the matter of law. I beg leave of the House to withdraw the amendment.

The amendment was, by leave, withdrawn.

Mr. Speaker : The question is :

" That clause 2 stand part of the Bill. "

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3.—(*Addition of Sixth and Seventh Schedules etc.*)

Mr. Speaker: I find a number of amendments here making small corrections, perhaps of spelling or putting the names in proper order. For instance there is one substituting "Adi-Dharmi". It is a pure mistake of spelling. That will be corrected. Is it necessary to have it as an amendment ?

Dr. Ambedkar: Sir, I am pressed to say that in clause 3, in the proposed Sixth schedule, under the heading 'Delhi' in entry No. 14, after the word "Dhanak" the words "or Dhanuk" be inserted—If that satisfies some Members.

Mr. Speaker: That is amendment No. 4 in the list, by Mr. Chandrika Ram.

Dr. Ambedkar: Mine is No. 5 in the list. Anybody's may be taken.

Mr. Speaker: I would take the amendment about "Adi Dharmi" also. Mr. Chandrika Ram's amendment No. 2 is what the Hon, the Law Minister is accepting as his No. 3.

Shri J. R. Kapoor: In a different form that is "Ad Dharmi". The correct expression is "Adi-Dharmi".

Shri Chandrika Ram (Bihar)**:** It should be "Adi-Dharmi".

Dr. Ambedkar : I am prepared to accept his amendment.

Mr. Speaker: Does the hon. Member Mr. Chandrika Ram accept the Law Minister's version in regard to his amendment No. 4?

Some Hon. Members: Both are the same.

Mr. Speaker: I think the hon. Minister's amendment (No. 5) is better than Mr. Chandrika Ram's amendment (No. 4). And I think amendment No. 7 by the Law Minister is also better in form than No. 6 of Mr. Chandrika Ram.

Dr. Deshmukh: I want amendment No. 8 of mine.

Dr. Ambedkar: I have examined the list and I have also consulted authority. Those contained in No. 8 have never been part of the Schedule. I do not accept amendment No. 8.

Amendments made :

In clause 3, in the proposed Sixth Schedule, under the heading 'Delhi', in entry No. 1, for " Adharmi " substitute "Adi-Dharmi".

—[*Shri Chandrika Ram*]

In clause 3, in the proposed Sixth schedule, under the heading 'Delhi' in entry No. 14, after "Dhanak" insert "or Dhanuk".

—[*Dr. Ambedkar*]

In clause 3, in the proposed Sixth schedule, under the heading 'Delhi' in entry No. 34. after "Rehgarh" insert "or Raighar".

—[*Dr. Ambedkar*]

Dr. Deshmukh: I beg to move:

In clause 3, in the proposed Sixth Schedule, under the heading 'Delhi', at the end, add new entries:

"40. Nai (Barber).

41. Dhiwar (fisherman)".

While replying to my speech the hon. the Law Minister referred to my being discontented with Government. From the recent speech that he made it appears that he is also not too pleased with the Government of which he himself is a part.

Shri Sidhva: Are barbers untouchables?

Dr. Deshmukh: I am bringing this amendment on the strength of a representation that has been made to me. Secondly, in the list which was referred to by the Hon. the Law Minister— which is a notification by the Federal Public Service Commiossion, India, dated the 12th March 1949— these two castes are included.

[PANDIT THAKUR DAS BHARGAVA *in the chair*.]

As I had pointed out in my speech the number of these castes in Delhi according to this list is sixtyfour. I have not suggested the inclusion of all that have been omitted. I have only suggested two, which are also present in the list here. I think it is very unfair that the Hon. the Law Minister should not accept it. But even if he is not prepared to accept it I want to press it and I hope all hon. members of this House will be pleased to vote with me, because this is discrimination pure and simple. For one purpose you have a notification in which certain castes are included. This notification holds good and neither the Law Minister nor the Government have taken any steps to disallow this list. Any boy who is born of any of these castes is entitled to apply, under this notification, styling himself as a scheduled caste. But here I do not know for what reasons the Hon. Dr. Ambedkar does not wish to include them. These two castes are here in this list—in this Gazette copy which any hon. Member may come and see. These petty fishermen who are called Dhinwars or Jhinwars—that name also is here—are here in this list, which is item 22 in this list. I hope therefore that irrespective of what the Hon. Dr. Ambedkar decides, the House will vote with me and see that these two castes who feel it keenly are not deprived of their privileges merely by a stroke of the pen. I hope therefore that the House will support me in this amendment of mine.

Shri Sidhva : May I know whether it is a Government of India publication?

Dr. Deshmukh: Yes. Dr. Ambedkar has got a copy of it.

Mr. Chairman : Amendment moved:

In clause 3, in the proposed Sixth Schedule, under the heading 'Delhi', at the end, add new entries:

"40. Nai (Barber).

41. Dhiwar (fisherman)".

Shri Sonavane : With reference to the amendment moved by my hon. Friend Dr. Deshmukh I think only such of the castes who are untouchables in the society……

An hon. Member: We have no untouchables now.

Shri Sonavane: That is the basis for the scheduled castes lists and therefore these two communities are mentioned in the amendment and if they are really untouchables then there should be no objection to their inclusion. But as far as my knowledge goes, in Bombay, barbers and fishermen are not untouchables and if they are not treated as untouchables here in Delhi, I do not see any point in their inclusion. Therefore, I would oppose this amendment.

Shri Shiv Charan Lal (Uttar Pradesh)**:** It is really very strange to see that Nais are being put in the scheduled caste list. In our province, U.P., formerly they used to write Nai Thakur and afterwards as Nai Brahmin. If you call them scheduled castes, I am sure they would never like it. The same is the case with Dhiwars. You cannot include these two castes in the scheduled castes in any way. As for any other list that might be prepared for the purpose of giving service or any other thing, they might be termed as 'backward'. That is a different thing, but they cannot be put in the scheduled castes' list in any case.

Shri Deshbandhu Gupta: I also agree with my hon. friend who has preceded me that Nais and Dhiwars should not be considered to be members of scheduled castes in Delhi. I do not know on what basis their names have been included in the list which Dr. Deshmukh has read out. The fact is that some time ago some representatives of Nais came to me and said that they had a grievance that they were termed as members of depressed classes. Therefore, I am sure that Dr. Deshmukh will not be obliging the Nais and the Dhiwars by their inclusion in this list.

Mr. Chairman: Has not the hon. Member heard : *Ghar* se *aaya hai motbir nai?*

The question is:

In clause 3, in the proposed Sixth Schedule, under the heading 'Delhi' at the end, add new entries :

"40. Nai (Barber).

41. dhiwar (fisherman)".

The motion was negatived.

Sardar Hukam Singh (Punjab)**:** I beg go move:

In cluase 3, in the proposed Sixth Schedule…….

Dr. Ambedkar: If my hon. Friend moves both his amendments together, I am prepared to accept them, subject to one reservation that these will be numbered alphabetically. Under the heading "Delhi", he has given the No. 40 and so on and under the heading " Himachal Pradesh " he has given the No. 28 and so on. These will have to be renumbered.

Sardar Hukam Singh: I beg to move:

(i) In clause 3, in the proposed Sixth Schedule, under the heading 'Delhi' at the end, add new entries:

"40. Kabirpanthi.

41. Mazhabi".

(ii) In cluase 3, in the proposed Sixth Schedule under the heading 'Himachal Pradesh', at the end, add new entries:

"28. Banjara.

29. Bawaria.

30. Ramdasia."

Mr. Chairman : Amendment moved:

(i) in clause 3, in the proposed Sixth Schedule, under the heading 'Delhi' at the end, add new entries:

" 40. Kabirpanthi.

41. Mazhabi".

(ii) In clause 3, in the proposed Sixth schedule, under the heading "Himachal Pradesh', at the end, add new entries:

" 28. Banjara.

29. Bawaria.

30. Ramdasia."

Shri Sonavane : With reference to the amendments moved by Sardar Hukam Singh, I would like to say that I am very much surprised that Sardar Hukam Singh, who is a Sikh to the core, has come forward to take out some of the Sikhs from the Sikhs proper and put them as scheduled castes. I was very much surprised in the beginning when I learnt that there were some scheduled castes among the Sikhs and then it became clear to me that Dr. Ambedkar was right when he did not embrace Sikhism. Besides that, when we hear a lot of

atrocities committed in P.E.P.S.U. and Punjab by Sikhs on the scheduled castes. I am afraid my hon. Friend Sardar Hukam Singh wants some communities to remain as scheduled castes in order that persecutions may continue to be committed on them. Therefore, I would request him to withdraw his amendments and get all these people into his fold and bring them up to his level and in that way end the scheduled castes among the Sikhs.

Shri Deshbandhu Gupta: Before you put the amendments to vote, I would like to know whether Dr. Ambedkar has satisfied himself that the Kabirpanthis in Delhi are members of the scheduled castes ? To my knowledge, there are no Mazhabis in Delhi and I do not object to their being included in the list as some Mazhabis might have migrated here. But about Kabirpathis, so far as I know, they are not termed as members of the scheduled castes. If Dr. Ambedkar has satisfied himself about this I have no objection, but if he has not satisfied himself, merely for the reason that they are so in the Punjab and P.E.P.S.U., they should not be treated as such in Delhi.

Sardar Hukam Singh: I have not put down anywhere whether these would be Sikhs or Hindus. I do not see why such an obsession should be there and certain hon. Members should bring up such an objection. I deliberately refrained from saying anything on the order that had already been passed and when I learned that the Hon. Minister was accepting I did not make a speech. But now a discussion is being initiated, may I be allowed to say certain things? I never said it has to be done here. It is also in the order of the President that these castes shall be included in the Scheduled castes so far as the Punjab and P.E.P.S.U. are concerned. I have stuck to that whether they are Hindus or Sikhs, they shall be scheduled castes. Whether they are Hindus or Sikhs, it has been admitted that they are backward classes. Now, to bring.....

Mr. Chairman: The Hon. Minister is accepting the amendment.

The question is :

(i) In clause 3 in the proposed Sixth Schedule, under the heading 'Delhi', at the end add new entries:

" 40. Kabirpanthi.

41. Mazhabi".

(ii) In clause 3, in the proposed Sixth Schedule, under the heading 'Himachal Pradesh', at the end, add new entries :

"28. Banjara.

29. Bawaria.

30. Ramdesia."

The motion was adopted.

Shri Chandrika Ram: I beg to move :

In clause 3, in the Sixth Schedule, at the end, add:

" Ajmer-Merwara.

1. Aheri

2. Begri

3. Balai.....

Dr. Ambedkar: These amendments are quite outside the scope of the Bill. The Bill reserves seats in certain Part C States. It is only in those States that we are trying to define what the scheduled castes are. In Ajmer-Merwara we have not reserved any seat. In Bhopal, we have not reserved any seat. In Tripura and Coorg we have not reserved any seat. Therefore, these amendments are quite outside the scope of the Bill.

Shri Chandrika Ram: You are going to make a representation for Part C States. All these people belong to Part C States. Even yesterday when I spoke I did not demand that these people must have representation. But, this matter has got a long history. When these people.....

Dr. Ambedkar: I might mention to cut short the discussion that Government has in contemplation the issue of a list of scheduled castes in Part A states, Part B States and also Part C States where there is no representation because it is felt that besides the privilege of representation in the legislature, there are also other privileges such as educational concessions, fees and services and so on. In order that there may be no misunderstanding on the part of anybody that those scheduled castes who are not included in the list are not entitled to those privileges. Government propose to do that. This is hardly the moment to deal with that.

Shri Chandrika Ram : It is not a new thing that I have brought forward here. In the Ministry of Education, the Government of india have already accepted this list and on the ground of this list, all these people are getting scholarships. What is the harm if the Government accepts.....

Dr. Ambedkar: It cannot be done in this Bill.

Mr. Chairman: We have already adopted clause 2; Clause 2 gives representation only to certain States. Those States are not included in this amendment. I do not see how this amendment could be moved. Therefore, I rule it out of order.

The question is:

"That clause 3, as amended stand part of the Bill".

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 1, was added to the Bill.

The title and the Enacting Formula were added to the Bill.

Dr. Ambedkar: I beg to move:

"That the Bill, as amended, he passed. "

Mr. Chairman : Motion moved :

"That the Bill, as amended, be passed."

Ch. Ranbir Singh (Punjab)**:** (*English translation of the Hindi Speech*) Sir, I must thank Hon. Dr. Ambedkar for providing representation for the backward classes of Delhi and other areas. But I wish to submit all the same that the problem presented by Delhi is a peculiar one. Delhi has four seats out of which hardly one falls to the lot of the rural areas. If the rural seat is also joined on to an urban seat and bracketed with it, the other seat being a reserved one, this would mean giving away the seat of one backward class to another. I think that as against the clever people of Delhi and the officers and big people living in New Delhi the rural people of Delhi should be included either among the scheduled castes or if the Hon. Minister would not have them as such on the ground that they are not Harijans, they might be included among the scheduled

tribes. The Hon. Minister should thus have tried to get them a seat. Since I know that this is extremely difficult I would make another suggestion. There is a general principle that as far as possible the seats for those areas which have a larger percentage of the scheduled castes, should be doubled. There are also some other considerations attached. I know that in the case of not one but several states, occasions have arisen when the Committees have not followed these rules. I do not mean to say that they have not followed them at all. Exceptions are always there and it would be right to a great extent, to treat this as an exceptional case. The reason for this is that there is a considerable difference between the people living in the rural and the urban areas of Delhi. Besides if people belonging to the scheduled castes are given representation from the rural areas they will have to experience a lot of difficulty. If any two seats out of the seats for Delhi city are doubled this would help those poor folks in whom we all are interested to secure true and proper representation. If, however, their seat is joined on to the rural seat this would not serve as a reward to them but rather as a punishment. Hence, I would appeal to the Hon. Minister to give a direction to the Election Commission that in the matter of the doubling of seats they might combine any two out of the three seats for Delhi city and turn them into double seats but that the seat for the rural areas should be left single so that it could be possible to do justice to a backward class of people who are as much entitled to sympathy as the scheduled castes.

(*Translation concluded*)

Shri J. R. Kapoor: Sir,....

Mr. Chairman : The Bill has been so much discussed and at such great length that I do not think any long speeches are necessary now.

Shri J. R. Kapoor: I do not want to enter into any detailed discussion. If you will permit me, Sir, I only want to utter a note of warning. I will not take more than two minutes. That note of warning is that by not accepting my contention the Hon. Law Minister has rendered the greatest possible disservice to the scheduled castes and scheduled tribes of Part C States.

Shri Sonavane : No, no.

Shri J. R. Kapoor: I am sure he will regret sooner rather than later having adopted this attitude and this contention that the scheduled castes and scheduled tribes should be considered as defined in article 366 for the purposes of the Constitution. If I only draw his attention to article 335 and some other cognate articles which also use the words 'scheduled castes' then, I am sure he will change his opinion because if he would still stick to that view, then the scheduled castes and scheduled tribes will be deprived of all the various privileges that are contemplated to be given under article 335 and other articles to the scheduled castes and scheduled tribes residing in Part C States. Article 335 runs thus :

> " The claims of the members of the Scheduled Castes and the Scheduled tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affaris of the Union or of a State. "

If scheduled castes and scheduled tribes as mentioned in article 335 are to refer only to those scheduled castes and scheduled tribes as are defined in article 366, meaning thereby the scheduled castes and scheduled tribes belonging to Part A and Part B States, then, the scheduled castes and scheduled tribes residing in Part C States do not get the advantage of article 335 of the Constitution. By this one error—I do not know whether it is error of judgment or what it is —by this one error to day-he has deprived the scheduled castes and the scheduled tribes of Part C States of all the benefits they were having or could have under article 335. And...

Mr. Chairman: Order, order. May I ask the hon. Member whether all the members of the scheduled castes and the scheduled tribes are bound by the interpretation given by the Law Minister ? there is no such thing as an estoppel on interpretation. We have only just enacted this Bill without coming to any legal conclusions whether this interpretation or that interpretation is the correct one. That is for the courts to decide. The courts have to interpret the meaning.

Shri J. R. Kapoor: With due respect to you, Sir, I would submit that it is for the Government and for the Cabinet to advise the President in this matter and as such these scheduled castes and tribes will be losing what they were entitled to get with reference to article 335. So far as the Government is concerned, they are bound by the interpretation of the Law Minister.

Mr. Chairman: And can he not change his opinion?

Shri J. R. Kapoor: I do not know whether he will change his opinion or not. But so far I have found that...

Mr. Chairman: Let me point out that at this stage this discussion is quite academical. After all we have accepted a particular provision in the Bill and we are not concerned any further with the definition of a scheduled tribe or scheduled class or other articles so far as this Bill is concerned.

Shri J. R. Kapoor : Therefore, it is that I say I am only sounding a note of warning here.

Shri Jnani Ram (Bihar) **:** The time for filing objections to the electoral rolls has expired on the 31st of March last. But in view of the amendments now made will the scheduled castes people be entitled to file objections even after this date?

Dr. Ambedkar : That question does not arise because a person is registered as a voter irrespective of the fact whether he is a member of the scheduled castes or not.

Shri Jnani Ram: Does it not arise when a candidate happens to be a member of a scheduled caste or scheduled tribe ?

Dr. Ambedkar : That question will arise on the date of nomination.

Mr. Chairman : The question is:

"That the Bill, as amended be passed.

The motion was adopted.

REPRESENTATION OF THE PEOPLE (No. 2) BILL

Presentation of Report of Select Committee

***The Minister of Law (Dr. Ambedkar):** Sir, on behalf of the Chairman of the Select Committee I present the Report of the Select Committee on the Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

Shri Kamath (Madhya Pradesh)**:** In regard to this matter may I know whether Government have taken any decision as to how many days will be allotted for the discussion of this very important Bill and when. That will be helpful to members in more ways than one.

The Prime Minister and the Leader of the House (Shri Jawaharlal Nehru): Government considers that this measure should have top priority, so that as soon as the Finance Bill is discussed this Bill should be taken up.

Shri Kamath: How many days will be allotted for its discussion?

Shri Jawaharlal Nehru: I cannot say.

Mr. Deputy Speaker: The hon. Member very often gets into the noose. It is no good saying that it is open to any Member or even the Government to restrict the time allotted for the discussion of a Bill. Let not the House give away its rights and privileges.

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*P.D., Vol. 10, Part II, 31st March 1951, p. 5566.

REPRESENTATION OF THE PEOPLE (NO. 2) BILL

The Minister of Law (Dr. Ambedkar): I beg to move:

> " That the Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections, as reported by the Select Committee, be taken into consideration."

In the few observations that I propose to make in support of the motion, I wish to draw the attention of the House to the changes made by the Select Committee in the Bill and also to the changes proposed by some of the Members of the Select Committee in their minutes of dissent. The House will agree that the Bill is a very big one, extending to about 169 clauses. The Select Committee has made changes in various clauses of the original Bill and it is hardly possible for me to deal with every single change proposed by the Committee. I think it would be enough if I were to draw the attention of the House to the most important changes which have been made by the Select Committee.

So far as I see, I find that the Select Committee has made four important changes in the original Bill. The first clause in which important changes have been introduced is clause 7, which deals with the disqualifications for being chosen and for being a Member of Parliament or of a State Legislature. The House will recall that the clause as it stood originally had only three cases of disqualification in it. The first disqualification in the original Bill was founded on a conviction for an electoral offence, either connected with corrupt practice or an illegal practice. The second disqualification in the Bill was founded on a conviction for

*P. D., Vol. 2, Part II, 9th May 1951, pp. 8348-70.

an offence enacted by the penal law of the country as distinguished from an electoral offence, for instance, an offence under the Penal Code or some other local criminal law. The third one was the disqualification which was founded on what might be called the actual serving of a sentence during the course of the election. That will be found in the original clause 7, sub-clause (2). And the fourth was failure to lodge election expenses in accordance with the law and within the time.

So far as these original proposals are concerned, the only change to which the Select Committee has made is with regard to the disqualification contained in sub-clause (2) of clause 7.

[MR. DEPUTY SPEAKER *in the Chair*]

That provision the Select Committee has dropped. And the reason is this that the clause is unnecessary so far as a sentence is for two years or more. If the sentence is for less than two years the Committee felt that there was no necessity to enact a disqualification on that ground because, assuming that a man was elected to the House, it would still be necessary for him to obtain the permission of the House to absent himself beyond sixty days, which is the rule now, and if the House did not grant him the permission his seat might thereby be rendered vacant. On that ground the Committee felt that it was unnecessary to retain it.

To this clause 7 the Committee has added four new disqualifications which are very important. The first is that the holding of a contract with Government would, under the provisions now made by the Select Committee, be a disqualification. Secondly, the holding of a licence or permit from Government for dealing in commodities which are subject to control so far as their price or movement is concerned would also be a disqualification. Thirdly, the holding of a Directorship in a company in which the Government has a share or interest would be a disqualification ; and fourthly, dismissal of a Government servant for corruption. These are the four new disqualifications which the Select Committee has added to the original clause.

Now I come to the second change which the Select Committee has made. The House will remember that there was in the original Bill a clause which was numbered 35. The object of that clause was this. The clause intended to seperate proceedings with regard to nomination from proceedings with regard to actual election. As hon. Members will remember, an election proceeding falls into two divisions. The first is the stage of nomination and the second is the stage of election. Under the law as it existed the provision was this that there was no finality to the proceedings with regard to nomination. There may be objections to nominations and yet the election could continue to its final course and it is only when an election petition was filed for challenging the result of the election that it was open to any party who was a party to the election to raise the question before the Election Tribuanal that the nomination paper of a particular candidate was wrongly admitted or that the nomination paper of a particular candidate was wrongly rejected. Then if the Election Tribunal came to the conclusion that either of the two grounds was well-founded it was open to the Election Tribunal to set aside the whole of the election. It has been felt by many persons who are interested in politics that, that was not a very fair thing, to have the whole of the election gone through with the enormous amount of expenditure which various candidates would incur and then to be ultimately faced with this solitary single issue whether the nomination paper was properly admitted or rejected and then the whole election to be set aside. It has been felt that it was a very wrong thing and that it was desirable to sever the nomination proceedings from the election proceedings and that the election should proceed after the nomination proceedings have been finalised and made conclusive so that no such issue could be raised before the Election Tribunal when the election was challenged. I personally felt that that point of view was a very good and a very sound one and that if it was possible we should treat the nomination issue as a preliminary issue, as civil lawyers call it and have it disposed of completely and finally, so that we could then proceed to real election and the challenge to the real election could be limited only either to corrupt practice or to illegal practice or to intimidation and cases of that sort in which the election was neither fair nor free.

Unfortunately the Committee did not agree with that view, although, as Members will see from the Report of the Select Committee, they expressed a great deal of sympathy with the provisions contained in the original clause 35. The Committee was greatly influenced by the fact that before the nomination proceedings could be deemed to have been concluded and finally settled it would be necessary for somebody to investigate whether the questions as to qualifications and disqualifications of a candidate were properly decided. The Committee felt that if the issue of qualifications and disqualifications of candidates were to be decided before the actual election starts the interval between nomination and election might be very long and the election might not take place as expeditiously as we would all wish it to take place. That was the governing factor which led the Committee to reject the provisions contained in the original clause 35. Notwithstanding that, as hon. Members who have read the Report of the Select Committee would notice, the Committee has said that they like the provision, and, if during the passage of the Bill in the House it was possible to evolve some formula which would avoid that delay that Members feared would take place between the conclusion of the nomination proceedings and the start of the election, they would welcome such a provision. I myself have not been able to think of anything which I could at this stage put before the House. I am told that such a provision does exist in the Madras law which deals with the election of the District Local Boards. It was after a long time that I was able to get a copy of that and I have not had time to apply my mind to it. I therefore—speaking from my point of view—propose to keep this question rather open.

Then I come to the third change which the Select Committee has made and that relates to the Election Tribunal. First of all I may refer to the changes made in the personnel of the Tribunal. As the House will remember, the original provisions in the Bill said that District Judges, advocates of ten years' standing and subordinate judges might be regarded as eligible to act as Members of an Election Tribunal. The Select Committee has cut out subordinate judges. They think they

ought not be regarded as eligible for sitting on an Election Tribunal and they have added retired District Judges and retired and sitting High Court Judges as persons eligible for being appointed to an Election Tribunal. With regard to the two other matters relating to the Election Tribunal namely, the constitution of the Tribunal and the question of appeal, the Select Committee has made no change, so that the Tribunal as originally provided would continue to be a Tribunal of two members, one Chairman and one Member. Similarly the provisions with regard to appeal will also continue. As the House knows, we provide no regular appeal at all. What is proposed is that if the two members differ, there will be an automatic reference to the High Court.

Then I refer to the fourth change which the Select Committee has made and which from what has happened recently, I think, is a very salutary and a very important change. The House will remember, that in the original draft Bill the power to fill casual vacancies was left to the State Governments to decide. It was a matter left entirely within their power and within their discretion. The Select Committee felt that the State Governments might not be very diligent in the matter of exercising these powers and casual vacancies might remain unfilled for a long time, depriving constituencies of their opportunity to have their representatives sitting in Parliament or in the State Legislature. The Committee has therefore decided that this power, instead of being left with the State Governments, should be vested in the Election Commission which has nothing to do with Parliament or with the State Legislature. It is he now who will fix the date of election ; it is he now who will issue writs to the constituencies for holding the election and for sending their representatives. This I think is a very salutary change. These are the four important changes which the Select Committee has made in the Bill.

I will now proceed to deal with the changes proposed in the Minutes of Dissent. Analysing the Minutes of Dissent, I find that the Members who have subscribed to their Minutes of Dissent propose 10 different changes to be made in the Bill, as reported by the Select Committee. The first change is an

alteration in the disqualification clause introduced by the Select Committee in sub-clause (*d*) of clause 7. This change is proposed by two members of the Select Committee, Mr. Gokulbhai Bhatt and my friend, Mr. Goenka. Among themselves they do not seem to be *ad idem*. Mr. Bhatt has no objection to the disqualification relating to holding of a contract to continue as it is. His only objection is to the holding of licences or permits, but my hon. friend, Mr. Goenka objects to both. As I said, these provisions did not exist in the original Bill; they were introduced by the Select Committee. I do not mind giving to the House my own personal reactions to these additional provisions. The first thing I feel is that there is no doubt that the clauses, as worded in the Select Committee draft of the Bill, appear to be somewhat severe. I personally feel that we could make a distinction between disqualification for being chosen and disqualification for continuing to be Members of Parliament. We ourselves have been making that distinction. I do not quite understand what difficulty or political injustice can arise if we said that while persons holding a contract from Government or having a licence from Government are free to stand as candidates for election they would become disqualified for continuing to be Members of Parliament. I cannot see any difficulty in making a provision of this sort. In other words, we may permit a holder of a contract or a holder of a licence to stand as a candidate. After he has been elected, he may be presented with this alternative, either he gives up his contract and continues to be a Member of Parliament or he decides not to be a member of Parliament and continues his contract……

Pandit Maitra (West Bengal)**:** Whichever is more profitable ?

Dr. Ambedkar: Whatever it is, my point is this. I think it would be too much to say that none of these people shall be entitled to stand as a candidate. There may be something in the argument that they should not continue to be Members of Parliament. I think we could make that change.

Shri Sidhva (Madhya Pradesh)**:** Has Government any view on this ?

Dr. Ambedkar : In course of time Government's view will be known. With regard to the other question of licences and so on, no doubt a great agitation is going on in the country by the business community that if this clause stood as it now stands in the draft Bill of the Select Committee, the whole of the business community would be disfranchised from playing its part in Parliament, I mean in the political affairs of the country. I am sure that we do not want to bring about such a result. Every section of the community should have an opportunity of taking part in the politics of the country, of coming into Parliament, placing its points of view, modifying legislation in any way it thinks it ought to be. Parliament ought not to be a sectional body, representing any particular class or any particular group or any particular community so that the point of view of all others goes un-represented. I think that would be very unfair thing; it would be a disservice to Parliament in my judgment if such a thing happens. At the same time, I am quite clear in my mind that while the business community should have a fair opportunity to influence politics and to come into Parliament, we do not want Parliament to be converted into a Stock Exchange.

10 A.M.

Pandit Maitra: They are already dominating.

Dr. Ambedkar: Another thing that we must bear in mind, and which I think goes to the root of the matter is that our Parliament and our Electoral law should be so constituted that the independence of the Members of Parliament as against the Government must be scrupulously observed, There can be no use in a Parliament if we adopt a system which permits the Government to corrupt the whole of the Parliament either by offering political offices or by offering some other advantages. If a Parliament cannot act independently without fear or without favour from the Government, in my judgment such a Parliament is of no use at all. Therefore, while it is necessary to permit every class of people to come into Parliament and to play their part, you must at the same time place some safeguards whereby Parliament will not be converted into a sort of what I might call chorus girls who would be saying always ditto to what the Government say.

Shrimati Durgabai (Madras)**:** Why girls ?

Dr. C. D. Pande *rose—*

Mr. Deputy Speaker: What is it ?

Dr. Ambedkar: My point is as I said, we have to sail within two limits. One limit is this: that our electoral law should not be such as to deliberately shut out any particular section or any particular community. The second limit is this: the Electoral law must be such that it would maintain an amount of freedom in Parliament. Within these two limits, anybody who has any suggestion to make with regard to the improvement of the provision relating to this particular disqualification will have my sympathetic hearing.

Mr. Deputy Speaker: Is there any provision regarding political jobs ? The Hon. Minister was saying that political jobs or contract ought not to be allowed to corrupt Members of Parliament.

Dr. Ambedkar: To that point, my reply is this. I wish very much that we adopted the principle of the British law where there has been a definite limit laid down to the number of Ministers, Parliamentary Secretaries, Ministers of State, and so on. I hope some day we shall be able to pass legislation of that kind so that Government will not be in a position to increase its supporters by offering political jobs such as Ministers and Deputy Ministers and Parliamentary Secretaries to anybody in the House. This matter.....

Seth Govind Das (Madhya Pradesh)**:** Why not have those provisions now ?

Dr. Ambedkar: That cannot be done; that is a matter dealing with Ministerial affairs. I do not know ; perhaps, you may remember that this question was considered at the time when the Government of India Act, 1935, was made. One proposal was .....

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao): That was by a foreign Government.

Dr. Ambedkar : Wisdom is wisdom whether it comes from inside or outside the country.

Pandit Munishwar Datt Upadhyay (Uttar Pradesh)**:** Are you in agreement with this ?

Dr. Ambedkar: Yes ; I said so. I remember when the Government of India Act, 1935 was framed, this very question was raised whether we should allow the Prime Minister……

Pandit Thakur Das Bhargava (Punjab)**:** Article 102 is already there; everybody holding an office of profit is disqualified.

Dr. Ambedkar: We have limited that. If anybody becomes a Minister, he ceases to come under that disqualification. I do not want to go into that now. This question apart. I shall answer the query that you put.

Shri Sidhva : Why not incorporate all those things here ?

Dr. Ambedkar: I cannot do all sorts of things in this Bill.

Shri Kamath (Madhya Pradesh)**:** You were referring to the Government of India Act, 1935. What was it ?

Dr. Ambedkar: I said about the Government of India Act, 1935, because I had been at the Round Table Conference where this very question was raised namely, whether it was necessary to put a limit on the number of Ministers that could be apppointed. The point there was that it might be possible for the Ministry to so expand as to have a large number of people in the Ministry so that the House may be disabled. There were two proposals made. One proposal was that a maximum number should be fixed in the Act, that not more than a certain number of persons could be appointed as Ministers. The second proposal was—I do not know whether the Members would like it or not—to fix a maximum salary for the Ministry as a whole, so that, if they wanted to expand, they could do so by dividing the spoils and lowering the share of each one. Neither suggestion was adopted and it was left to the good sense…….

Seth Govind Das: We can have both.

Pandit Munishwar Datt Upadhyay : Could you limit the number of Ministers under the Constitution ?

Dr. Ambedkar: The House can.

The Minister of State for Transport and Railways (Shri Santhanam): If cannot; please read the Constitution.

Dr. Ambedkar: I am very sorry; I should think that we can. There is nothing in the Constitution to prevent that. All that the Constitution says is that there shall be a Council of Ministers to advise the President. It does not say how many Ministers there will be.

Shrimati Durgabai: On a point of order, Sir.....

Mr. Deputy Speaker: The hon. Member is on a point of order. Will the Hon. Minister give way?

Shrimati Durgabai : On a point of order, Sir, may I know whether the Hon. Minister is making any insinuation against the Government that whenever they appoint more Ministers or Deputy Ministers they are appointing them only to disable the House ?

Dr. Ambedkar: I am replying to the Chair. I wanted to drop the thing; it was Mr. Kamath who wanted me to say something.

Mr. Deputy Speaker: I do not think there is any insinuation.

Dr. Ambedkar: I hope my hon. lady friend is not intending to create bad blood between myself and the Ministry.

I come to the next question. The second proposal is that the Princes should be declared to be disqualified for being chosen as Members. The point is made by my hon. friend Mr. Raj Bahadur—I hope he is here—and his friends.

Shri Raj Bahadur (Rajasthan)**:** I am here.

Dr. Ambedkar: Mr. Rama Rao has appended a separate minute of his own. The ground which has been urged by Mr. Raj Bahadur and his friends is that the Princes are holders of Office of profit. It seems to me that if that contention

is correct, it is not necessary for us to introduce any kind of clause in this Bill at all, because the Constitution itself lays down in article 102 that holders of offices of profit shall not be eligible for being Members of Parliament. If his contention is that they are holders of office of profit, they automatically come under article 102 of the Constitution. It has laid down this disqualification which this Parliament can neither amend nor enlarge. The only thing he can do is to act under article 103 which says that if any person who is a holder of an office of profit is a Member of Parliament, the matter may be referred to the President and the President shall after obtaining the opinion of the Election Commission, give his decision according to such opinion. To take a concrete case, suppose any particular prince—I think they call them princes—is elected to this House or to any Chamber of the State Legislature, all that is necessary to do, if my friend is correct, is to apply to the President saying that he is a disqualified person and so cannot take a seat in Parliament. Therefore, on his own argument it is unnecessary to introduce any clause for the purpose in this Bill. It is for him to say whether his contention that they are holders of offices of profit is correct or incorrect. On that subject I do not propose to express any opinion now.

Shri Sidhva: They get a sort of pension.

Dr. Ambedkar: There is vast difference between pension-holders and these cases.

Shri Hussain Imam (Bihar)**:** What about Government pensioners? Are they holding offices of profit ?

Dr. Ambedkar: I do not wish to be dragged into this aspect of the matter. The point is very simple. The question is whether if they are holders of offices of profit, they are disqualified. If that be so, the disqualification is there under article 102. You have only to refer to the provisions of article 102 and get the person removed from Parliament.

Shri Raj Bahadur: It is a case for the lawyers again.

Dr. Ambedkar: Why not? The hon. Member is himself a lawyer. Why should he shut himself out?

Shri Shyamnandan Sahaya (Bihar)**:** Cannot the matter be raised before the Election Commission ?

Dr. Ambedkar : It is unnecessary to go to that length; The remedy is very simple, as I have already explained.

Well, then. If my friend's contention is that the holding of an office of profit is not a good ground for disqualifying them, then the House in enacting a provision for disqualifying them, must, of course, have some justification. Referring, for instance, to the composition of the House of Commons it may be pointed out that the clergy of England are disqualified for being members of the House of Commons. Similarly a person holding a peerage which entitles him to sit in the House of Lords is a disqualification for being a Member of the House of Commons. Now, in both these cases there is ample justification why they are disqualified. If my friend were to study the history of the case, he will know that the clergy were disqualified by the Act of 1801 because it was felt that under the Protestant Revolution when the State became the head of the Church or when the Church and the State became one—what are called allow-sons—that is to say, churches where service is offered and payments made, these became a sort of gift in the hands of the State and consequently it was felt that churchmen and priests were holders of offices of profit and therefore they must be disqualified. With regard to members of the House of Lords being disqualified from being members of the House of Commons, there again the justification is quite obvious, namely that a person cannot be a member of two Houses. This is the principle which we have also embodied. Therefore the disqualification of these two classes of people, although it exists in England is founded on the two justifications which I have given. If my friend could suggest some justification other than the ground of office of profit, it would be open to consider whether such a justification is valid here,

Dr. Parmar (Himachal Pardesh)**:** Can the Princes not be excluded on the ground that they are political pensioners ?

Dr. Ambedkar: I do not know why political pensions should be regarded a disqualification. Of course, as

hon. Members know, Dr. Johnson, the author of the first English Dictionary, defined a political pensioner as a slave of the Government. But he himself subsequently accepted a pension from Government. It is no use being too logical.

Dr. Parmar: Are political pensioners debarred from the House of Commons ?

Dr. Ambedkar : No, only Peers and lunatics, as they used to say in the days of the Reforms.

The third point raised in the Minutes of Dissent relates to the reservation of seats to the Scheduled Castes in double-member constituencies. This point is dealt with at considerable length by Mr. Sarangdhar Das and Mr. Rama Rao. It seems to me that this matter has already been concluded by the Representation of the People Act of 1950 which this House passed last year. A reference to section 6, sub-section (2), clause (*d*) of that Act would show that the House left this matter for the President to decide in an appropriate case. I therefore, do not think that we can do anything now, unless we go back and amend that Act.

Apart from that, I should like to draw the attention of the House to certain considerations which have prevailed upon the Government in making the sort of reservations which have been made. I think it necessary to draw a distinction between what may be called a reserved constituency and a constituency in which a seat is reserved. I think these are two very different things and the question that has to be considered is what was the intention, whether it was to adopt the system of a reserved constituency or a system of a constituency in which a seat is reserved. There again, it seems to me, if you refer to the intentions of the Constituent Assembly, the matter is more or less concluded. The first point is this. Our friends will remember—I shall refer to it presently that the Constituent Assembly passed a Resolution in favour of what is called distributive voting. Now, my submission is this. Would there have been any necessity to pass a Resolution regarding distributive voting unless it was the intention of the Constituent Assembly that the constituency should be one in which a seat is reserved ? If the intention was that it should

be a reserved constituency, no such question would have arisen, because the system of one man one vote would have applied. Secondly, although the Constitution does not expressly make any reference to this matter, the intention of the makers of the Constitution and of the Constituent Assembly appears to be clear by a reference to article 332, clause (5). My friend Mr. Chaliha must be very familiar with that article. The House will recall that a contention was raised whether a constituency should be reserved for the tribal area so that in that area only a tribal candidate would stand. On the other side the question was raised that if a constituency was so framed that only a tribal candidate could stand, the rest of the non-tribal people would be completely disfranchised. And that was not a desirable thing, the Assembly decided. Consequently in passing article 332(5) they made the special provision that if such a thing was to be done, then certain areas in which the non-tribal people were concentrated should be separated and given separate representation. I therefore concludes, from the fact that the Constituent Assembly supported distributive voting and from the fact that there is a provision in article 332, clause (5), that the intention of the Constituent Assembly was that the system to be ordinarily adopted is the system of a seat being reserved in a constituency. It was on this construction of these provisions that the Representation of the People Act, 1950, contained the provision which is embodied in section 6, sub-section (2), clause (*d*).

With regard to the question of distributive voting, there again both my friends Pandit Kunzru and Mr. Das have expatiated at considerable length in the vicious character of this system. As I said, it is quite open to argue that the cumulative system is better in that it enables minorities, social or political, to muster their strength and have their representative elected to the House. As I said just now, we have not got a clean slate to act upon. As my friend will remember this matter was discussed in the Constituent Assembly and a motion was moved by no less a person than the late Sardar Patel, in which he proposed that all special representation for all minorities, such as the Muslims,

Christians and so on, shall be abolished and that they shall be retained only for the scheduled castes and scheduled tribes, and wherever a seat is reserved in a constituency for these two classes the system of voting shall be distributive voting. That resolution was accepted by the Constituent Assembly. No doubt there was a certain amount of debate on that question but ultimately the decision of the Assembly was in favour of distributive voting. It seems to me that our Parliament must pay some special regard to the decisions of the Constituent Assembly, because, after all, it is from the Constituent Assembly that we have derived our power and authority. Certain decisions taken by the Constituent Assembly we have got in our Constitution, certain others which we could not embody in our Constitution remain outstanding. It does not mean that because we have not embodied those decisions in the Constitution we are not to pay any regard to them. Therefore it seems to me that whatever may be the view-point on the subject—I do not deny that there is some validity in the contention of the other side—I think personally that the matter must be regarded as concluded. It would of course be open to the House to take any step they like, if as a result of experience in the next or subsequent elections they find that the system is not a good one and ought to be substituted. But for the moment the decision of the Constituent Assembly must stand.

The fifth point raised is the declaration of the results. That is also raised by my Friend Mr. Sarangdhar Das. If I understand him correctly—he will correct me if I am wrong, for it is not quite clear to me—what he wants is that the results of the election should not be announced piecemeal, constituency by constituency, or province by province, but that all results should be announced on the same day. I take it that he has no objection to counting the votes piecemeal, constituency by constituency, and making the record of it complete. There is a difference between counting and announcing…….

Shri Gautam (Uttar Pradesh)**:** Counting is done in the presence of the candidate.

Dr. Ambedkar : Yes, of course. Those provisions are there. The only question is as you finish your counting for the

constituency, will you publish the results in the Gazette or will you wait until all the counting has been done in all the constituencies and the result is announced in a consolidated form in one issue of the Gazette.

Seth Govind Das: What would be the use ? will it not be published in the various newspapers ? (*Interruption*)

Dr. Ambedkar: I want to understand his minute of dessent. His argument seems to me, and it is not unsound, is that people after all are carried away by what is called the herd instinct. If people had voted in one way in one constituency other people like to do so in their own constituency. It is a psychological point. He felt that if the result of the election in one constituency was announced, which was unfavourable to any particular party, then the other constituency also might say "Our neighbours have voted in one particular way and why make an experiment of voting in some other way. Let us vote in the same way."

Seth Govind Das: When the counting will take place in the presence of the candidate it would be known to all newspapers and how will you be able to withhold the result ?

Dr. Ambedkar : You cannot. As I said no electoral law can be either foolproof or knave-proof. All sorts of loopholes will remain.

Shri Sarangdhar Das (Orissa)**:** I had put in the minute of dissent and I have also given an amendment, because there is a possibility of having the general election in some of the States, whereas other States are not ready with their electoral rolls and would like to have the elections sometime later. That is why I want that the results of the earlier elections should be held over until the later elections are over and all the results are announced simultaneously.

Dr. Ambedkar: I was only trying to understand him, because his minute deals with that in a few sentences. No doubt the matter will be considered, because there is something to be said for the point of view he has urged.

Mr. Deputy Speaker: It does not affect any individual election.

Dr. Ambedkar : It does not. I am only making a distinction between counting and announcing which is really the important thing.

Shri Naziruddin Ahmad (West Bengal)**:** The counting will be public and the result will be known and published in the papers.

Dr. Ambedkar : As regards counting it is there in the rules. Then there is this ticklish question of the use of conveyances. The Bill does not permit the candidate to employ cars or other means of transport for conveying his voters but it does permit the voter himself, if he has got a car, to use it for the purpose of going to the polling booth and registering his vote.

Seth Govind Das: Can a voter hire a cart ?

Dr. Ambedkar : He may if he wants to pay, but our friends are rather worried over this. They say that it is perfectly possible for a candidate to circumvent this provision by putting a few pieces of money into the hands of the voter and say "You hire the car and I pay for your conveyance. Come and vote for me." Therefore they say this provision would be nugatory. I do not deny the possibility of such circumvention but the question we have to consider is whether this provision will be circumvented on such a large scale as altogether to nullify the provisions of this particular section. My reply is that it would not be so possible. That is my view. On the other hand, we have to take into consideration two other factors—I shall be very frank about it. We are making provision for our polling booths to be within two or three miles of each village. In that event perhaps it is not necessary to use a car at all. On the other hand, there is also the fact that there are many people who have got a right to vote, who are willing to vote, but who on account of their old age are not able to walk to the polling stations. There are many people who are lame or who have some kind of a physical disability which prevents them from going to the polling booths on their feet.

An hon. Member: Such as ladies.

Dr. Ambedkar: Well. I do not know. If you say ladies, yes,—women in India walk and therefore I am not concerned with them.

Dr. Deshmukh (Madhya Pradesh)**:** What are our sisters in this House, ladies or women ?

Dr. Ambedkar: I shall leave it to them to answer.

Therefore, as I said, in determining this question we have to take into consideration these various factors. One is this that our polling booths will be much nearer than they used to be. Secondly, there may be a good many people who on account of their physical disability will not be able to go to the polls. Are you going to deny altogether any kind of physical aid by way of transport to such people to go and register their votes ?

Shri J. R. Kapoor (Uttar Pradesh)**:** Make an exception in their case.

Dr. Ambedkar : As I said, I am not concluding the matter by expressing any dogmatic opinion. I am putting both sides of the question before the House. It is for the House to determine. Personally, I do not mind if transport is completely stopped; anybody who wants to vote may go on foot and vote. But we have got to consider this question that there are a large number of people who may not be in a position to go and we must make some kind of a provision for them.

Then I come to another point which is very important: obtaining of assistance from Government servants in the elections. That point is raised by Mr. Gokulbhai Bhatt and also, I believe by my friend Mr. Khandubhai Desai. I cannot help saying that this is a very important provision and in considering this the following points, I think, require attention. We must make a distinction between the right to vote and the right to take active part either in forming a political party or in helping an existing political party. So far as the right to vote is concerned, nobody in this country is denied that right; neither the government officers employed in the civil services nor the military personnel have any impediments placed in their way in the matter of exercising their right to vote. The only question that arises for consideration is this, whether they should be permitted to form an association of themselves for the purpose of starting a political party or

helping any particular political party. It seems to me that to allow the civil or military servants of the Government to take past in party politics is nothing short of sowing the seeds of subverting the Government. That point can never be forgotten, it seems to me. If our Secretariat servants were allowed to form a political organisation as against the existing Government that they wish to bring about, what would happen to the administration ? Could they be expected to be loyal to a government which they intended to overthrow by their political activities ? It seems to me the whole administration will come down to pieces. Secondly, it must be remembered—and I emphasise it because I find that it is not generally remembered as it ought to be—that whether the political party of the government, the Ministers and so on, is partial or impartial or whether they side on one side or the other is a matter of small moment. What is of importance is the impartiality of the administration. The administration, in my judgment, is far more important than government as such. And supposing the administration was permitted to associate itself with political parties, would the administration be impartial ? Would they not favour those who work with them and disfavour those who do not work with them ? What would happen to the administration ? Therefore, I am very strongly opposed to the suggestion made by my friend. Mr. Khandubhai Desai or by Mr. Gokulbhai Bhatt that the administrtation should be permitted to take part in politics or to help any particular candidate by holding meetings for him, for canvassing, for collecting funds, and this, that or the other. I think it is absolutely subversive of civil and military government

Shri Bhatt (Bombay)**:** That is not the idea behind my suggestion.

Shri Khandubhai Desai (Bombay)**:** You were not replying to my minute regarding the activities of ordinary employees of Government in support of any candidate.

Dr. Ambedkar: I thought you were dealing with it generally, but if you were to move an amendment then the matter will be debated at a later date. I have plenty of material

on this subject and I think I shall be able to satisfy the House on this point.

Shri Bhatt: What I have suggested does not concern the officers and persons holding administrative posts but only the ordinary run of employees known as the officials.

Dr. Ambedkar: It is very difficult to make a distinction between मामूली कर्मचारी and बड़े कर्मचारी.

There is one other question and that is with regard to the use of symbols. The Select Committee has decided that religious and national symbols shall not be used. Our friend, Mr. Das, and then Mr. Man and Dr. Syama Prasad Mookerjee differ. Mr. Das is in favour of the provision but he wants to extend it. He said that there might be colourable imitations of the prohibited symbol and since they were only colourable and not actual it might be possible for members of the political party to get round this particular provision. Well, as I said. I do not know whether I can find any suitable words to prohibit colourable imitation. I have not as yet found any suitable expression to overcome that difficulty. Our friend, Mr. Man and Dr. Syama Prasad Mookerjee object to it. They say symbols should be permitted.—the Hindu Mahasabha should have its own flag to carry on the election compaign. I think that the provision in the Bill as reported by the Select Committee is a very sound one, because I think that elections ought to be conducted on issues which have nothing to do with, for instance, religion or culture. A political party should not be permitted to appeal to any emotion which is aroused by reason of something which has nothing to do with the daily affairs of the people.

Shri Kamath: What about political emotion ?

Dr. Ambedkar: Political emotion—enthusiasm—is all right, but I think that any emotion other than political emotion should not be permitted. Therefore, this is a good provision and the suggestions made are unacceptable to me,

Then I come to the last point in the Select Committee's Report which I know has caused a great deal of heart burning i.e. with regard to the return of election expenses—what

expenditure must be included in the return ? Mr. Goenka who has raised this matter in the course of his minute of dissent says that if the clause stands as at present, a political party will not be free or entitled to spend money on elections and he thinks that is a situation which ought not to be allowed. The political party should be permitted to spend money on elections, which a candidate—and this is the most important part—need not show in his return of election expenses. The last point that the candidate need not show is most important. It seems to me that his contention is founded on a misunderstanding of what is meant by election expenses. Since the Select Committee reported, I have myself gone a great deal into the cases which have been decided by the Election Tribunals in England over a long course of years and I would like to give to the House some of the results arrived at by the Election Tribunals in England. In considering this question, the first point that has to be borne in mind is that we are dealing with 'election expenses' and we have to understand very clearly what is meant by 'election expenses' of a candidate. Election expense means 'expense incurred during a period beginning from the commencement of the election and ending with the conclusion of the election.'

Shri Kamath: Does commencement mean nomination or polling ?

Dr. Ambedkar : I am coming to that. It may be before that.

Therefore, we must bear this in mind—that the phrase 'election expense' has reference to a definite period, namely, the period commencing from the beginning of the election and the period ending with the conclusion of the election. Any expense incurred by anybody before the commencement of the election is not election expense.

Shri Kamath: What is the commencement—nomination or polling?

Dr. Ambedkar: I am coming to that. If you will let me proceed, I shall explain. I have spent some considerable time and taken considerable trouble over this, because I myself wanted to understand it.

Mr. Deputy Speaker: Is there any such restriction in the body of the Bill ?

Dr. Ambedkar: No such thing, but I am talking about the judicial interpretation of the phrase 'election expense'

Mr. Deputy Speaker: Does that mean 'all expenses in anticipation of the election ?'

Dr. Ambedkar: The emphasis is on the word 'election' Election means an event which has a beginning and an end. Therefore, what I am saying is that we are only concerned with expenses incurred on an election which has a beginning and an end.

Shri Kamath: Everything has

Dr. Ambedkar: Some things probably have not. Some things are *sanatan*—they have no beginning and no end. But election is *not sanatan*. Having regard to this fact, any expenditure incurred before the commencement of the election, whether it is incurred by the candidate or whether it is incurred by the political party, does not come within the meaning of election expenses. A political party may be free to spend any amount of money before the election commences, because that would not be part of the election expenses. After the conclusion of the election, a political party or a candidate may do anything. A candidate, after he is elected, might invite people, subject of course to the food regulations, to a dinner in the Imperial Hotel. That is not part of the election expense. Therefore, barring these two things, a political party is free to incur any expenses. That is not barred by this clause.

Shri Sidhva: What about 'during elections ?'

Seth Govind Das : *rose*—

Dr. Ambedkar: Do not cross-examine me. Let me go on. If you have a complete idea of what I have to say, you will probably have no questions to ask at the end.

Now, I come to the point raised by my hon. friend Mr. Sidhva about the expenses during the event of elections. Let us examine the situation in a very concrete way, not theoretically. What happens when an election is on ? Two

things may happen. One is that there may be political meetings or political lectures.

Shri Sidhva: Also political pamphlets.

Dr. Ambedkar: I am coming to that separately. I am taking each case by itself. First let us consider political meetings and political lectures. I think everybody will agree that these political meetings and political lectures could be divided into two classes. Political meetings and political lectures may be intended for the advancement of the political principles of a particular party without reference to any particular candidate. The Conservative Party may come and say, "Well, we believe in property. We believe in freedom of industry and things of that sort," without any reference to any particular candidate. On the other hand, there may be political meetings and political lectures for the specific purpose of advancing the candidature of a particular individual. So far as judicial decisions are concerned, expenditure incurred on political meetings and political lectures which are not centred round the idea of promoting the candidature of any particular individual is not part of the election expenses. Therefore, a political party would be free to go to any constituency ; organise meetings or a series of lectures ; send lectures for the purpose of propagating its principles and faith, without mentioning names. On the other hand, as I said a meeting may be organised in which the intention is to win over the voters to the side of a particular candidate. Then obviously, it is part of the election expenses. I have now given you the line which should be drawn between expenses which are part of the election expenses and expenses which are not part of the election expenses.

Seth Govind Das: Very confusing.

Dr. Ambedkar: Yes, it is very confusing. You want a straight line, but you cannot have it.

Now take the other case—for instance the issue of books, pamphlets, posters and things of that sort. There again, you have got to make some sort of a distinction. Books, pamphlets, posters, etc. which are for the purpose of propagating the

principles of a party are not part of election expenses and need not be shown in the return by the candidate. On the other hand, if there is a book saying "20 points in favour of Mr. so and so—why he should be elected" or if a poster is put out giving the photograph of the candidate, giving below something in praise of him and recommending him to the electorate, obviously that is in furtherance and advancement of his election. Therefore, expenditure on that would be expenditure chargeable to the election and should be mentioned in the return of election expenses.

I am giving the results of the election petitions tried by the various tribunals in Great Britain. This is the distinction that they have drawn. Anything which does not promote or advance the election prospects of any particular candidate is not part of the election expenses and therefore free to be incurred by anybody, whether a political party, a philanthropist, friend or anyone who wishes to take interest in this matter. These are, as I said, the guiding principles which the various election tribunals in England have laid down for the purpose of determining what expenditure is chargeable as election returns and if our election tribunals follow the same rules, there is more than enough room for political parties to spend their money in furtherance of their political faith. If they do something for the special benefit of any particular candidate, then, of course, that becomes part of his election expenditure and must be shown in his return of election expenses. Sir, I think I have exhausted all the points which arise from the report of the Select Committee and the Minutes of Dissent that have been recorded by hon. Members.

Shri Satish Chandra (Uttar Pradesh)**:** What about the duration of election ? What will determine the commencement and the conclusion of the election ?

Dr. Ambedkar: The courts have held that no doubt polling is one fact which is the other end of the election—the election has concluded.

With regard to the commencement of the election, courts have said that it is a question to be determined by fact.

Ordinarily, if there is nothing to the contrary, then the date of nomination would be the date of the commencement of the election. But they say it is perfectly possible for a candidate long before the election takes place to publicly announce that he is going to be a candidate. He may not only announce, but may incur some expenditure in order to steal a march over some other candidate. If that is so, then the date on which he has announced himself publicly as a candidate shall be the date of commencement of election in his case.

Dr. C. D. Pande (Uttar Pradesh)**:** Then everybody will have his own date.

Dr. Ambedkar: I suppose so. Sir, that is all that I have to say.

Mr. Deputy Speaker: After the Minister's statement today nobody will announce his candidature openly.

Shri Sondhi (Punjab)**:** There are some people who have already announced it in Delhi—what about them ?

Dr. Ambedkar : I have nothing to add to what I have said and I commend the motion to the House.

Mr. Deputy Speaker: Motion moved:

> "That the Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and legal practices and other offences at or in connection with such elections and the decision of doubts arid disputes arising out of or in connection with such elections, as reported by the Select Committee, be taken into consideration."

I was the Chairman of the Select Committee on the Bill, and as such may I make a suggestion for the consideration of the House. There is no one single principle running through the whole Bill. There are various points dealt with in different clauses to which the Hon. Minister for Law referred. Therefore, to cut short the discussion on this Bill—if the House is agreeable—I will put the consideration motion to the House and then the real discussion will begin on the clauses.

Some hon. Members: No, no.

Shri Sidhva: I think it is a healthy suggestion that you have made.

Shri Gautam: It will be very difficult for the House to decide whether there is some connection between one clause and the other. If you introduce this, then the tyranny of the majority will start not today, but tomorrow. Therefore, as protector of the privileges of this House, and especially of the minorities, I would request you not to introduce this novel procedure.

Mr. Deputy Speaker: Let me not be misunderstood. I have nothing to say against the majority or the minority. I have only made an appeal to the House irrespective of the question of majority or minority.

Shri Kamath: It is very gratifying to hear Mr. Mohanlal Gautam talk of the interests of the minority.

Mr. Deputy Speaker: At any rate, I hope Members will bear my observation in mind and try to conclude before the end of the day.

Shri Gautam: I congratulate the Government for introducing the Bill, although after a long time. There is a general impression in the country and also outside created by the opponents of the Congress and other interested parties that the Congress does not want to hold the elections. I think the Government has got its difficulties; the Provincial Governments have got their problems. But I can assure you of one thing and that is that the Congress as a political party has never been in favour of delaying the elections.

We do not want to delay the elections because we are afraid of them. We want them to be completed as soon as possible. There are certain difficulties which have prevented Government from holding the elections earlier. There is in some quarters a lurking suspicion that the elections might be delayed a little further. I, Sir, would request Government that the elections must be held according to the schedule in November-December as announced by the President in his address to this House and no further delay should be brooked.

11 A.M.

***Shri Gautam:** .....Then I come to the last point that I want to raise and that is about illegal practices. Dr. Ambedkar has laboured very much to explain one point to us which as the interruptions of the House showed was not clear to many of us and that was with regard to the return of election expenses.....

Dr. Ambedkar: Not clear.

Shri Gautam: The clause reads as follows:

> "The following shall be deemed to be illegal practices for the purposes of this Act:—
>
> (1) The incurring or authorisation by any person other than a candidate or his agent of expenses on account of holding any public meeting, or upon any advertisement, circular or publication."

Mark the words, it is not publication only. If a man distributes the handbills of a candidate, it is circulation "or in any other way whatsoever" and this opens the door. I do not know to what extent and to what limit. The clause further reads:

> "or in any other way whatsoever, for the purpose of promoting or procuring the election of the candidate, unless he is authorised in writing so to do by the candidate."

If I were a candidate, I think it will be impossible for me.....

An hon. Member: You are making an announcement.

****Babu Ramnarayan Singh** (Bihar) (*English translation of the Hindi speech*) **:** I thank you, Sir.....

Dr. Ambedkar: Speak in English.

Babu Ramnarayan: No. Sir, we are now a free nation. Why should we remind ourselves of our slavery by speaking in English ? I will therefore express myself in Hindi.

I very much appreciated one of the observations made by Hon. Dr. Ambedkar. It was that the object of the laws that

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*P. D., Vol. 11, Part II, 9th May 1951, p. 8375.

***Ibid.,* p. 8413.

are being made would be such as may ensure that no Government in the country may be able to corrupt the Members of Parliament. This is a welcome thing but some provision should also be there, and I think it is very essential to see that the Government should not be corrupt because if the Government are itself corrupt, they would corrupt the Members also. It will certainly happen. Therefore the aim should be that no opportunity be made available to corrupt them which, in other words, means that there should be no corrupt Government in the country at all.

*** Pandit Krishna Chandra Sharma :** These allegations are irrelevant in view of the fact that the other party is not here to explain the matter.

Mr. Deputy Speaker: It relates to Congress elections.

Dr. Ambedkar: The matter is now placed in the hands of the Election Commissioner under the Constitution. It is not in the hands of Government.

Mr. Deputy Speaker: The Election Commission has been made supreme and the Select Committee proceedings show that they have given further powers in respect of the notification of the dates and other things both for the general elections as well as the bye-elections. The Election Commission has been made more and more important.

Shri Kamath: He wants to support this salutary change.

Mr. Deputy Speaker: But we are not enquiring into the past. Let him come to this Bill.

**** Pandit Krishna Chandra Sharma :** .....Then I come to the question of election expenses. As Prof. Shah said, most of the expenses will be incurred either in propaganda and

*P.D. Vol. 11, Part II, 9th May 1951, p. 8415.

*******Ibid.,* pp. 8460-61.

publicity or in carrying the voters to the booths. So far as propaganda and publicity are concerned they would be done by the party to which the candidate belongs. Situated as we are it is very difficult for an individual to stand on his own account: a candidate, I suppose must belong to one party or another and that party will in course of time evolve its own method of working. We might make mistakes in the beginning but just as other people have evolved precise methods of working we too are not likely to fall in devising proper methods of propaganda and publicity. But I do not agree with the Hon. Law Minister that expenses incurred on propaganda on a party basis would be a part of the election expenses incurred by the candidate...

The Minister of Law (Dr. Ambedkar): I did not say that—I said just the opposite.

Pandit Krishna Chandra Sharma: Then it is all right. The election expenses of a candidate must be confined to expenses incurred with regard to that candidate, which would be incurred mostly by himself, his agent or on his behalf by his friends. So, the question of the expenses coming to large sums, as Prof. Shah fears, will not arise because among other things, the polling booths will be easy of access to all the voters which will eliminate heavy expenses.....

***Dr. C. D. Pande** (Uttar Pradesh)**:** Before I take up the provisions of this Bill. I should like to make a reference to the compliment that has been paid by Dr. Ambedkar to the Members of this House. He referred to them as chorus girls.

Dr. Ambedkar: I am sorry. I think it is quite wrong to say that I referred to the House. My observations were of a general character; they had nothing to do with the House at all.

Shri R. Velayudhan: It was not about the House.

Dr. C. D. Pande: If he did not mean that.....

Mr. Deputy Speaker: He did not want Members of the House to be mere chorus girls when they are elected.

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*P.D., Vol. 11, Part II, 10th May 1951, pp. 8464-65.

Dr. C. D. Pande : It comes nearly to the same thing.

Dr. Ambedkar: Not at all. It refers to future Members.

Dr. C. D. Pande : Anyhow, when I heard that remark.....

Dr. Deshmukh: He has not discovered any of such characters here so far.

Dr. C. D. Pande: I felt with some Members of the House at least that that remark was not a happy one, and the remark if it was appropriate, let me extend the simile further. What he said was that the Members were chorus girls. If we are all chorus girls, then he is the matron of that establishment.

Shri Syamnandan Sahaya (Bihar)**:** You may be one ; we are not.

Dr. C. D. Pande : He is the matron of that establishment.

Shri R. Velayudhan: Is it not an insinuation Sir?

Shri Rajagopalachari: If we talk again and again about chorus girls perhaps they may object too!

Mr. Deputy Speaker: As a matter of fact, some of the lady Members of this House expressed to me that I ought to have intervened and said that a reference ought not to be made to chorus girls. They are very touchy about these matters now-a-days.

Dr. Ambedkar : I apologise if they have taken it in offence. This is what I said : if we did not do certain things, then what might follow will be like that. I had not the sightest idea to refer to the Members of this House. I was referring to the result that will follow if certain precautions are not taken.

Babu Ramnarayan Singh (Bihar)**:** You were right.

Dr. C. D. Pande: If he did not mean it, I leave it at that.

The main provisions of this Bill have been throughly discussed by previous speakers and I would touch only a few main points. To me, the most vital point is the use of the national flag in the election campaign in this country in which the Congress takes part wherein the use of the national flag could be avoided or should be avoided. The distinction between the national flag as accepted by Government and as used by the organisation is very slight and people are really confused.

It will be very difficult for the officers concerned to make a distinction whether a particular flag has got the Asoka Chakra or the Charkha on it.

Dr. Ambedkar: I think the two are perfectly distinguishable.

*** Dr. C. D. Pande :** .....Dr. Ambedkar said that he found no difficulty in filling the election expense returns because election expenses means expenses incurred for the election, that is, after the nomination. The question was put whether pre-nomination expenses were included there or not. He said it depends, because if you have announced your candidature from that date it will be incumbent upon you to fill it in the returns. I think it will be very very difficult and dangerous to give such wide ranges and to give new definitions for the election expenses and for the nomination expenses—to make that distinction between the two stages, that is, nomination expenses and election expenses.

Dr. Ambedkar: I did not make any such distinction.

Dr. C. D. Pande: You said that election expenses do not mean the expenses incurred before the nomination is valid, that is to say, the expenses up to the date of validation of the nomination should not be included. But so far as the terminology goes it includes all the expenses incurred on the election, whether before or after nomination.

Dr. Ram Subhag Singh (Bihar)**:** Not before nomination.

Dr. C. D. Pande: Why not ?

Mr. Deputy Speaker : That is the judicial interpretation according to the Hon. Minister.

Dr. C. D. Pande : I myself have experience of filing election returns. There are expenses for instance of getting the voters list has to be included.

Dr. Ambedkar: That is right. But you do not want all the registers. All that is necessary is a certified entry. It will not cost you more than two pence.

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*P. D., Vol. 11, Part II, 10th May 1951, pp. 8469-71.

Dr. C. D. Pande: What I want to make out is that the demarcation between nomination expenses and election expenses has not been observed so far, but it may be done in the future.

Mr. Deputy Speaker: Evidently the hon. Member is suggesting that there should be an explanation.

Dr. Ambedkar: All that he is suggesting is that there ought to be no such rule as presenting the election expense return and that a candidate should be able to spend any amount according to his capacity.

Dr. C. D. Pande: I do not wish to restrict the amount, it is a matter of practical difficulty when election returns are filed—whether pre-nomination expenses will be included or not, whether election expenses will be included or not, whether election expenses mean only the expenses incurred after nomination and up to the end of polling. If that is so this is a new meaning given to election expenses. That is what I want to say....

Then I want to suggest one thing and that is about withdrawal. You have said therein that nobody should be asked lawfully to withdraw from standing. So many dummy candidates are set up by parties and they are asked to withdraw. Either you say that this jargon has not got any meaning, or if it has a meaning it must be made clear and there should be no loopholes.

Mr. Deputy Speaker: The language seems to be quite clear.

Dr. Ambedkar: The Select Committee certainly did not find any difficulty in understanding it.

Dr. C. D. Pande : Clause 122 (1)(*a*) says "a person to stand or not to stand as, or to withdraw from being, a candidate at an election."

Mr. Deputy Speaker: The earlier portion ought to be read along with that, namely, "Bribery that is to say, any gift, offer or promise by a candidate with the object of inducing" etc.

Dr. C. D. Pande: Suppose I suggest to a candidate that he should not stand for the Assembly because he has a better chance to be taken up in the Upper House. Does it amount to corrupt practice ? It does as far as I read the provision.

Dr. Ambedkar: It does not come under sub-clause (1). You are offering him better and surer prospects.

Dr. C. D. Pande: Does it not come within this provision ?

Dr. Ambedkar : You can go on doing your manipulations.

Dr. C. D. Pande : They are necessary and we should not be ashamed of them because a party cannot be run without them.

Pandit Thakur Das Bhargava (Punjab)**:** I think it would come within the mischief of the clause.

Dr. C. D. Pande: I would very respectfully submit to Dr. Ambedkar that there are situations that have to be met in practical life and you cannot do away with the difficulties you find. We would have left this language as it is had we not the apprehension that in future all the elections will be questioned and in all the elections the basest material of human nature will come out to upset things and the courts and lawyers will conspire to do their best to undo what has been done by the franchise. To my mind, if a man secures the majority votes that is the highest tribunal for the final decision for his being elected.

Dr. Deshmukh: Lawyers will be available to conspire against that also.

Mr. Deputy Speaker: On the other hand, is there no danger of a proper candidate who is liked by the constituency being forced, by illegal gratifications offered, to withdraw his candidature after the nomination is filed ?

Dr. C. D. Pande: But it remains to be decided whether a promise to set up that person for the Upper. Chamber instead of the Assembly amounts to corrupt practice or not.

Hon. Members: No.

Dr. C. D. Pande: These words do not indicate that.

Mr. Deputy Speaker: I think these doubts may better be cleared when the clauses are discussed.

***Shri Raj Bahadur:** .....This brings me to my point and my minute of dissent that I have appended to the Report of the Select Committee. Yesterday, Dr. Ambedkar pointed out that a clause disqualifying the Rulers or all those persons who get some fixed allowances, salaries and pensions from the Consolidated Fund of India is not necessary at all. He invited our attention to the provisions of articles 102 and 103 and said that in case there is any Member against whom an objection is taken on this score, the remedy lies in appealing to the President. I would request the Hon. Minister to listen to me because he wanted me to give him the justification for asking him to include a clause to that effect.

Mr. Deputy Speaker: The hon. Member invites the attention of the Hon. Minister, particularly about the Princes, how far they hold offices of profit etc. The hon. Member wants to impress his arguments on the Hon. Minister.

Dr. Ambedkar: I am sorry, another hon. Member was asking some questions about this.

Shri J. R, Kapoor: Are all pensioners in India disqualified ?

Shri Raj Bahadur: There are amendments to that effect also.

Therefore, to sum up my objection is that these are a privileged class and they should be ineligible to contest the elections. My objection does not proceed on mere legal or constitutional grounds. It is much more fundamental. I am not at all for a moment afraid of their entering the election contest with any of us in Part B States. So far as we are concerned we should like the common man to rub shoulders with the highest. But the position is that when they come into the election contest we will have to say things.....

Mr. Deputy Speaker: If he holds an office of profit under article 102 he is disqualified for being chosen.

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*P. D., Vol. 11, Part II, 10th May 1951, p. 8477.

Dr. Ambedkar: So the remedy is there.

Shri Raj Bahadur : But Dr. Ambedkar is not at all clear.

Mr. Deputy Speaker: That has to be decided only by the President. That point may be disputed also in a court of law. If the Prince is not disqualified under the Constitution how can he be disqualified by this law ? Is it not a Fundamental Right, even if he does not come under article 102 ?

***Mr. Deputy Speaker:** The hon. Member evidently means that under clause (*e*), "if he is so disqualified by or under any law made by Parliament". It is open to Parliament to make a law.

Dr. Ambedkar: He must show some justification.

Shri Raj Bahadur: The justification is that he would overpower the common man. The justification is that in the U.K. the Lords were not allowed to contest seats in the House of Commons, because they would try to perpetuate vested interests and interfere with the rights of the common man. Similarly if you allow these people whose position is analogus to that of the Lords in U.K. they will interfere with the affairs of the common man and will side with reaction and prove impediments to the progress of the country.

*** Shri Alagesan :** .....But I should like to utter a warning here about the conception of independence by the Election Commission. This independence is meant to hold the scales even between various political parties that compete for power. The Commission has to see that one political party does not get any undue advantage over another. The independence of the Election Commission does not mean that it should cause inconvenience to all parties impartially. Here I should like to refer to the work of delimitation of constituencies for Parliament as well as the State Legislatures.

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*P.D. Vol. 11, Part II, 10th May 1951, p. 8482.

******Ibid.,* p. 8485.

Dr. Ambedkar : I should have thought that that was quite outside the scope of this Bill. That matter will be debated when the President's Order will be placed before the House.

Mr. Deputy Speaker: I do not think it is the hon. Member's desire to go into the details of the delimitation question. The President's Order is yet to issue and will be placed before the House, when it can be discussed. But if in a general manner the hon. Member wants to show that because large powers are given to the Election Commission greater care must be taken by that Commission, then he would be quite in order.

Shri Alagesan: I think I can make a reference as to how the Election Commission has proceeded with its work so far.

Dr. Deshmukh : The hon. Member wants to show how the Election Commission has worked so far. He is quite in order.

Dr. Ambedkar: That may be debated when we take up the actual Order of the President delimiting constituencies.

***Shri P. Y. Deshpande :** ..... The fact is that everybody has the right to vote and stand as a candidate. What power is left in us now, without changing the Constitution, to limit that right of any person to offer himself as a candidate for election ? He may be a Raja or an ex-Raja. If the people want him, let them elect him. Having given this right to every one, why should we now fight shy of that ? The Rajas of even black-marketeers, whatever men there are in society, if the people choose them, that would be their verdict; right or wrong, evil or good. If you want to limit that verdict, then change the Constitution first and then you can limit it.

Pandit Thakur Das Bhargava : The Constitution empowers this House to prescribe qualifications.

Shri P. Y. Deshpande: You have not done that, so far.

Dr. Ambedkar: We are now doing that.

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*P. D., Vol. 11, Part II, 10th May 1951, p. 8491.

Mr. Deputy Speaker: Why should persons who have undergone imprisonment for more than two years be disqualified ?

Shri P. Y. Deshpande: That is true. I would even allow a criminal to stand as a candidate. I appreciate the case of the criminal. But, if you take a fundamental stand that every adult has the right to vote and stand as a candidate for the elections, if that is your concept of democracy, then, if the criminal has the courage to stand, the people will defeat him if they do not want a criminal. If a Raja wants to stand and if the people do not want him, the people will defeat him. The right to defeat these persons is vested in the people.

*** Shri Ghule:** .....I think, elections, big and small have been held in this country but it is difficult to make any distinction between the meetings held for the propagation of political doctrines and those for the personal canvassing of the candidate.

Dr. Ambedkar: I might inform the hon. Member that there is absolutely nothing new in clause 124, which has been bodily copied from the existing rules, which he will find in the Corrupt Practices and Election Practices Order, First Schedule, Part III. It has been there since 1919.

Shri Ghule : Quite right, I was just thinking that as this clause connotes a wide conception, it should have been included in the previous Act, and as you say, it was included. In spite of this law, Congressmen and other Members fought the previous elections while propagating the political doctrines to which they subscribed and at the same time canvassed votes in the constituencies from which they stood, but I have not come across any such instance in which the tribunals in India have declared any of the elections invalid on this ground. Therefore, as I was saying that I was not disturbed in the least to read the note of dissent of Shri Goenka but after having listened to the speech of Hon. Dr. Ambedkar I feel

*P. D., Vol. 11, Part II, 11th May 1951, p. 8534.

perturbed. As Hon. Dr. Ambedkar has said that this law was in force previously as well and in spite of it Congressmen, Socialists and Communists etc. in our country propagated their political doctrines and at the same time canvassed votes for their respective candidates as well, then what emergency has arisen today ? It will be better if Hon. Dr. Ambedkar clarifies the position during his reply to the Debate.

*** Shri Venkataraman :** ..... There is another thing which I do not understand. In clause 3 of the Bill it is laid down that a candidate to the Council of States should be a resident of the State concerned, but a candidate to the House of the People need be resident only in any Parliamentary Constituency in the country. I fail to see any reason for this distinction between the two. If there is any I hope the Hon. Minister of Law will clarify the position and tell us the reason why this distinction has been laid down, Clause 3 says**:**

> "A person shall not be qualified to be chosen as a representative ..... in the council of States unless he is an elector for a Parliamentary Constituency in that State..."

Shri Syamanandan Sahaya (Bihar)**:** Because it is the Council of the States.

Dr. Ambedkar: Yes, that is the reason. And the other is the House of the People.

Shri Venkataraman: But a person belonging to a particular State may be resident in another place and he should not be disqualified from standing as a candidate because he is not resident in that State. Take, Sir, your own case. You have become a resident in Delhi and so you will not be able to stand for election in your own State, since you are not enrolled in that constituency.

Mr. Deputy Speaker: If I am not in touch with my constituency, why should I stand as their candidate ?

Shri Venkataraman: Sir, as I said, this point has to be considered.

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*P.D., Vol. 11, Part II, 11th May 1951, pp. 8574-75.

***Shri Venkataraman:** .....A party cannot go and do propaganda saying, "Vote for Congress, vote for Liberal Party or vote for Labour Party", without stating who is standing as a candidate of the party concerned. But the moment that information is given it becomes an illegal practice. Even if there is a precedent the time has come when it should be changed.

Prof. Ranga (Madras)**:** What is the position in England ?

Dr. Ambedkar: It is the same as in the Bill—there is no departure.

Shri Venkataraman: Again in sub-clause (*3*) of clause 124 you have said that the issuing of any circular, placard or poster having a reference to the election which does not bear on its face the name and address of the printer and publisher thereof, will become an illegal practice. The easiest thing for an opponent to do is to issue a circular on behalf of his opponent, without the name of the printing press and this man would be disqualified.

Mr. Deputy Speaker: Unless the candidate is a party to it he will not be disqualified.

***Prof. Ranga:** ..... So far as the Chairmanship of the Tribunal is concerned I would like to suggest that to think of making a district judge the Chairman is really not reasonable. No one enjoying a lower status than that of a High Court Judge should ever be appointed as the Chairman of the Tribunal.

Dr. Ambedkar: You cannot get so many High Court Judges.

Prof. Ranga: You do not have so many Tribunals either.

Dr. Ambedkar: You do not know how many petitions there will be.

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*P. D., Vol. 11, Part II, 11th May 1951, p. 8578.

***Ibid.,* p. 8611.

Prof. Ranga: Then, there should be a maximum limit for election expenses. I do not think it is advisable to leave it to be prescribed later on by rules. And in making these rules I hope that it is only the Union Government which will be entrusted with this responsibility and not the State Governments. Even in this connection I do suggest for the consideration of the Law Minister that this power might be left with the President to be exercised on the advice of his Election Commissioner.

***R. K. Chaudhari :** ..... Take for instance, the provision regarding conveyance. If this rule had been applied severely before all the elections that had taken place hitherto in India would have been nullified. But today we turn our back and strive our utmost to fill gaps and impose severe penalties on wrong-dores at election time.

Mr. Deputy Speaker: Shri Rohini Kumar Chaudhari.

An hon. Member: This is *zabardasti*.

Dr. Ambedkar: You want women to be disqualified ?

Shri R. K. Chaudhari: The first point that I wish to speak about is about disqualifications as laid down in clause 7. More than one speaker before me have spoken on it and I would only add a few arguments for the complete deletion of sub-clause (*d*) of clause 7.

****Mr. Deputy Speaker:** I wish to give hon. Members ten minutes only, and I intend to call upon the Hon. Minister at five minutes to one.

Dr. Ambedkar: The arrangement as I understood in the morning was that I should reply on Monday morning.

Dr. Deshmukh : .....These are points which are accepted by most of the Members of this House and I hope on account

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*P. D., Vol. 11, Part II, 12th May 1951, p. 8632.

***Ibid.*, pp. 8639-40.

of the substantial degree of unanimity they will all be accepted by the Hon. Dr. Ambedkar.

Dr. Ambedkar: Sir, as you were pleased to remark when the discussion of my motion started, that as there was hardly any principle running throughout this Bill and that each clause stood on its own merits, the proper thing would be to devote more attention to each clause as and when it comes before the House, and I do not think that I need take much time in discussing the points which have been raised in the course of this debate. I know that many Members, if they at all feel very serious about the comments that they have made, will undoubtedly take care either to express their point of view when the clause is put before the House and if they have any difficulty I certainly would deal with that matter in order to remove the difficulty, or they will take the course of moving proper amendments to get their point of view discussed in the House and by carrying conviction to the House.

That being so, it is not necessary for me to deal at great length with the various points that have arisen. I therefore, propose to be somewhat brief and to touch upon only those points which may not arise again in the course of the debate.

Mr. Deputy Speaker : Is the Hon. Minister likely to take some time ?

Dr. Ambedkar: Yes, Sir.

Mr. Deputy Speaker: Then the House stands adjourned till 8-30 A.M. on Monday.

The House then adjourned till Half Past Eight of the clock on Monday, the 14th May 1951.

REPRESENTATION OF THE PEOPLE (No. 2) BILL—*contd.*

*** Mr. Speaker:** The House will now proceed with the further consideration of the motion moved by Dr. B. R. Ambedkar on the 9th May regarding the Representation of the People (No. 2) Bill.

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* P. D. Vol. 11, Part II, 14th May 1951, pp. 8650-57.

The Minister of Law (Dr. Ambedkar): On Saturday last when I entered upon the reply to the general debate on my motion, I said that although a great many points were raised by those who spoke on my motion there were some which were actually covered by amendments and that it was, therefore, unnecessary in the course of the reply to deal with those points because I felt that a better reply could be given when the motions are moved, and I said that I would therefore, confine myself to such points as were made in the course of the debate which were not covered by any amendment. On going over the amendments I found that there are only three points which are of some substance which were made at which I do not find having been made the subject of any specific amendment. It is therefore to these points that I propose to confine myself.

The first such point was made by Babu Ramnarayan Singh and also by my friend, Prof. Ranga. Both of them complained that according to their experience and information the Ministers of the Governments in various Provinces and States were taking very active part in the election campaign and that they were exercising their authority and their influence in order to serve their own political interests or the interests of the party to which they belonged, and that this kind of a misuse of authority and influence was calculated to result in unfair practice against those who did not belong to their persuasion. The suggestion that they made was that there ought to be a provision in this law calling upon Ministers to resign their offices some time before the actual election commenced. It seems to me that this suggestion has not been examined properly either by my friend Babu Ramnarayan Singh, or by Prof. Ranga, because I have no doubt about it that if they do examine the feasibility of giving effect to such a proposal they will find that it would be more or less imposible to give effect to it. In this connection I would like to point out the provision contained in our Constitution. The Constitution makes the President the head of the State. At the same time the Constitution lays down that the President shall not act except on the advice of what is termed the council of Ministers. Therefore, if the President is to act, it is absolutely essential, according to the Constitution, that there

must be in existence at all times a council of Ministers to advise him. We have not got any such provision as contained in section 93 of the Government of India Act, 1935 where under certain circumstances and in certain contingencies the head of the province, namely the Governor, was permitted to act on his own authority without the advice of the Council of Ministers. We have not got any such provision at all. In fact, the whole of the Government will have to be suspended for the period of three months if this suggestion is to be given effect to. Therefore, from the point of view of the Constitution itself the suggestion made is quite impracticable.

Both the Members, Babu Ramnarayan Singh as well as Prof. Ranga, also referred to the conduct of the civil servants who, they thought, either under the positive directions of the Ministers under whom they are serving or because of their desire to flatter and help and to win the goodwill of the Ministers under whom they are serving, were engaged in political activities in which they ought not to engage. I am very sorry to hear of that. If the fact as alleged by either one of them is true, it undoubtedly indicates a great deal of demoralization in the civil servants. It is all the more regrettable because we have taken ample pains in the Constitution and the rules that have been framed thereunder, to give the civil servants the utmost security in the matter of the tenure of their posts in the promotion to which they are entitled to and all the other privileges as to salaries etc. All that was done with the definite intention of giving the civil servants the security which it is necessary for them to have in order to be independent in the matter of administration. if, notwithstanding the security that has been given to them, the civil servants are not standing up to the best of their traditions, all that I can say is this that there has been a great demoralization. But I do not know what remedy one could adopt. As the Bible says. "If the Salt has lost its Savour wherewithal shall it be salted ?" If the civil servants have lost their salt. I do not know how they could be salted. I think we must depend upon the general improvement in the mind of our people as a whole that there are certain moral principles to which we must adhere in the course of our public life.

I hope such an elevation of the moral sentiments will some day come. But if my friend insists that rather than wait for the improvement in the morals of the people we should apply some legal remedy, there again I find that it is not quite so easy. The only remedy that one can think of is to make a law whereby we could make the conduct of a civil servant which is partial to any particular party or which is not strictly in conformity with the rules of administration, penal and subject it to some kind of rigorous sentence. It seems to me that one point in this connection has to be borne in mind and that is a civil servant could not be made liable to prosecution at the will and whim of anybody who feels himselfs wronged by the conduct of such a civil servant. It would be necessary to provide some kind of a previous sanction in order that a prosecution may be lodged against the civil servant. Whose previous sanction shall be required ? Obviously the previous sanction must be the sanction of the Government or of the President.

Prof. Ranga (Madrass)**:** Why not of the Election Commissioner ?

Dr. Ambedkar: Of the Election Commissioner ? Well, I have no idea and I do not want to say anything about the Election Commissioner because the officer, technically is supposed to be under me and I do not wish to say anything which would in any way derogate or depreciate from the authority of that particular officer. But let us admit that some kind of a sanction will be required before a prosecution is launched. Now I wonder whether the Government of the day, whom a particular administrator has helped, would be ready and willing to give its sanction. Therefore, if any such law was made, it would only be a paper law and would not have any effect in practice. It seems to me, therefore, that this is a matter which must be left to public morality and the sanctions of public morality.

The second point to which I wish to refer is a point raised by Mr. Venkataraman. He suggested that in this Bill voting is regarded as a right. His contention was that it should be regarded as a duty, that a citizen of this country should not

merely have the right to vote, but he must have the duty to vote and that he ought to be visited with some kind of a publishment. The sentiment of course is very laudable and no doubt the principle has been accepted in some of the countries such as Australia, Belgium etc. But let us examine the position a little more carefully. If this obligation is to be a real obligation, where in a country like India, according to Mr. Venkataraman himself and according to many others who have experience of elections, there is a general apathy regarding voting, the punishment must be somewhat serious. It could not be five rupees ; it could not be ten rupees. It shall have to be something like one hundred rupees. Now, I wonder whether anybody in this House, however enthusiastic he may be with regard to the point that every citizen ought to exercise his duty, would be prepared to support a punishment so condign, as the one represented by a fine of rupees one hundred. I doubt very much if many Members will come forward to support it. If the punishment is not rigorous enough, then again the law will be of no value at all.

Secondly, in a matter of this sort we will have to grant many exemptions. A voter may be on that day ill. If he is not ill, but finds subsequently that it is brought up before the court, it would not be very difficult to go to a medical man and obtain a certificate by paying eight annas, as most of us in criminal courts do in obtaining postponement of the cases. If he is not his wife may be ill, or she may have been delivered on the same day. All these things would arise and we may have to give a lot of exemption so that the law ultimately may remain to be a bare skeleton.

Shri Bharati (Madras)**:** What about the Australian Constitution ?

Dr. Ambedkar: In Australia almost everybody votes. I think the people who bring themselves within the ambit of this law are very few.

Shri Sidhva (Madhya Pradesh)**:** What is the panalty there ?

Dr. Ambedkar: Five pounds.

My own view is this. I cannot say that I have much of experience of voting. But such experience as I have has given me this idea that the lowest class of people in this country and the highest are politically most conscious. In my experience in my province, the Scheduled Castes, who stand last in the scale of social order, vote to the extent of 80 per cent. I have never found any election in which they have voted less than that. I also feel—and I think I am sure in my statement—that the *Brahmins* in my province vote about 80 per cent. The reason is obvious.

One community is a depressed community. It is conscious of the fact that its moral and material elevation depends upon the place it occupies in the legislatures of this country. Consequently they never waste their time, their energy in anything else, however profitable they may be except to go to the poll and vote on the day when the poll is called. My experience with regard to the *Brahmins* is also the same and my analysis is also the same. They today stand almost on the precipice. Everybody wants to push them out from all the places that they have occupied. Consequently they also know that unless they have a certain amount of solidarity among themselves, that unless each one of them goes to the poll they shall not be able to exercise the influence which they must exercise in order to secure themselves from a harsh pushing out immediately and to secure at least a transition from one stage to another.

Shri Kamath (Madhya Pradesh)**:** Not all *Brahmins*.

Dr. Ambedkar: The class which is apathetic and which does not care to vote is the middle class. Their existence does not seem to depend so much upon the Governmental activity. They have their granaries, if not full, half full and they know that without resort to any kind of Government help they can carry from season to season and from year to year. They therefore do not care about it. That is my experience. Therefore, what we need do at the present moment is to tell those Members who represent the middle class that there is a duty cast upon them, to see that this class becomes politically conscious and to call them to the election so that

they may participate in the same way as those at the top and those at the bottom do. I do not think that any legal remedy is necessary.

Then I come to the last point raised by my hon. friend Mr. Sonavane. It is really no argument that he presented. He wanted to know certain facts. He wanted to know what was the system of voting that was going to be. He was under the impression that there was going to be some kind of marking on the ballot paper as used to be in former times. My friend will know that under the single-member constituency system, with one-man-one-vote, crossing is absolutely unnecessary. Voting now becomes very much like buying a post card, writing the address of the addressee on it and dropping it in the postal box on the road. All that the voter has got to do is to go to the ballot clerk and to obtain the ballot paper which is a blank thing. He will know beforehand that there is a particular kind of coloured ballot box assigned to a particular candidate with a symbol chosen by him, out of the many that are improvised by the Election Commissioner and if he is properly informed beforehand he can take the paper and drop it inside without any necessity for marking. That is going to be the system.

Shri Sonavane (Bombay)**:** What about the colour and symbol ?

Dr. Ambedkar: It is a matter of convenience.

Shri Sidhva: Separate box for each candidate ?

Dr. Ambedkar: Yes, certainly. Otherwise how would it happen ?

There are, Mr. Speaker, the points which I thought I ought to touch upon because they were not covered by any particular amendment. I do not think that there is any other point of a similar sort which requires any explanation at the outset.

With these words, Sir, I commend my motion to the House.

Shri Kamath: May I ask one question ? Though the Law Minister said that he is not in favour of imposing a penalty or fine upon electors who.....

Mr. Speaker: I am afraid he is asking for some explanation and going into the merits.

Shri Kamath: I am asking for information.

Mr. Speaker: It is coming of course, in the form of asking for information ; in substance it comes to an argument again.

The question is:

> "That the Bill to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Speaker: We will now take the Bill clause by clause. We shall take up clause 2.

Dr. Ambedkar: May I suggest. Sir, that clause 2 is the definition clause and might be taken up last?

Mr. Speaker: All right. Then we shall begin with clause 3 and the consideration of clause 2 will be postponed. I shall call the amendments one by one and hon. Members wishing to move them will please indicate that they want to move them. In case I miss any, my attention may be invited.

***Mr. Speaker:** All right. Let him move his first amendment.

Shri Naziruddin Ahmad: I beg to move.

> In sub-clause (*1*) of clause 3, for the words "A person shall not be qualified" substitute the words "No person shall be qualified".

This is only a verbal amendment.

Dr. Ambedkar: Is each one to be disposed of, Sir ?

Mr. Speaker: Yes.

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*P,D., Vol. 14, Part II, 14th May 1951, pp. 8657-58.

Dr. Ambedkar: As the author of the amendment himself has said it is a purely verbal amendment. But I would like to add one more point. That is that the form that has been adopted in the Bill is the form which has been adopted in the Constitution. We would like to follow the form used in the Constitution consistently in all the Bills which relate to this matter. I therefore cannmot accept the amendment.

Shri Naziruddin Ahmad: I do not wish to press it.

Mr. Speaker: Then I am not putting it to the House.

Shri Naziruddin Ahmad: I beg to move.

In sub-clause (*1*) of clause 3 for the words "Parliamentary Constituency" substitute the words "House of the People Constituency".

***Shri Naziruddin Ahmad:** ..... There are a number of amendments and if this is accepted or rejected, it would dispose of a large number of similar amendments. As the expression appears frequently in this Bill, I think it is better not to encourage any confusion of thought.

Dr. Ambedkar: I cannot accept this amendment. In the first place there is no difference in substance. The effect remains the same. All that we are trying to do is to keep up the uniform phraseology which is used in this Act as well as . in the Representation of the People Act already passed. If my hon. friend were to see the definition in sub-clause (*f*) of clause 2 he will see that 'Parliamentary constituency' is defined to mean "a constituency provided by section 6 or by order made thereunder for the purpose of election to the House of the People." Therefore, there is really no difference at all. Secondly, I would like to draw his attention to the interpretation clause, clause 2, sub-clause 1(*a*) where it is stated: "each of the expressions defined in section 2 of the expressions defined in section 2 or sub-section (2) of section 27 of the Representation of the People Act, 1950 (XLIII of 1950), but not defined in this Act, shall have the same meaning as in that Act." Therefore, this is quite unnecessary.

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*P.D., Vol. 14, Part II, 11th May 1951, pp. 8659-60.

Mr. Deputy Speaker: The question is:

> In sub-clause (*1*) of clause 3, for the words "parliamentary constituency" substitute the words "House of the People constituency".

The motion was negatived.

***Shri Naziruddin Ahmad :** I believe that the Constitution has laid down that parliament may lay down the qualifications as well as the disqualifications. I suppose the Constitution likes that these articles should be taken advantage of. If Mr. Bhattacharya's argument is going to be carried to its logical conclusion it will set at nought two, or rather four, articles of the Constitution relating to the Central and State Legislatures. I therefore submit that Mr. Bhattacharya has displayed more enthusiasm than wisdom in this respect.

Dr. Ambedkar: When the Resolution was moved by Prof. K. T. Shah some time ago in this House I pointed out to him that his Resolution was very vague, that he had not set out any category of people whom he regarded as specially qualified for standing as candidates to Parliament or to the State Legislatures. We have now from Prof. K. T. Shah distinct categories of people whom he regards as suitable candidates for election to parliament. That is undoubtedly an improvement, because we have got now concrete proposals to consider on their own merits. One thing is quite clear and that is that these are disqualifications for candidature. It means that if the amendment is accepted only a certain category of people who fall in one of the seven categories mentioned here will alone be entitled to stand as a candidate. I hope my friend. Sardar Hukam Singh realizes that although it is not possible to say what will be the total number of people who will become eligible for standing as a candidate if this amendment was accepted, there can be no doubt about it that the number of people who will become eligible for standing as candidates as compared to the vast number of the voters would' be very small. In fact the effect of this amendment would be to create a sort of monopoly for certain people, who by adventitious

*P.D., Vol. 11, Part II, 14th May 1951, pp. 8687-90.

circumstances happen to belong to the categories mentioned in this amendment. I have no doubt in my mind that such a monopoly would be a vicious thing to introduce into the political life of this country. I should also like to state that I am not at all satisfied that merely because a person has intelligence or merely because he has experience, he is the only person necessarily fitted to fill a seat in Parliament. As I stated in the course of the debate, I attach far greater importance to character than to intelligence or experience and the amendment certainly does not ensure that the people who would be elected under the provisions of the Constitution would be of better character. The motive, if I understand correctly, of the Mover of that amendment is to improve the efficiency of parliament generally. I take it that is so. Now, let us examine each of the categories from that point of view. Take the first namely, one year membership of a legislative chamber. I am unable to understand what one year's experience of the membership of a legislature to a person who has no education who is not even literate, can mean in terms of efficiency ? Take the second category; elected member of any local self-governing body like the muncipality or the district local board. Here again the same question arises. I have not got much experience of a municipal corporation or a council. I happen not to have the experience but I have some knowledge of the district local boards and all that I remember is this, that the members of the district local board are generally most anxious to hold a meeting on the *bazar* day so that they can come there, take their travelling allowance, buy their weekly or monthly purchase in the *bazar* and go back. (*Interruption*) I do not know; there may be others and I know that case also, (*some hon. Members:* Not now.) That is my experience. Now in the village *panchayat* I again fail to understand what efficiency can there be in a member who is a villager, who happens to be a member of a village *panchayat.* What are their functions ? What resources have they ? What technical knowledge of administration do they possess ? Take a public servant who has been in service for five years undoubtedly must have certain experience, certain knowledge of all administrative processes, (*interruption*). A public servant, I take it is of a high character. I do not know

if it means a *chowkidar* also. With regard to this category. I am afraid the same observations must apply but if my hon. friend means by 'public servant' an I.C.S. officer or a higher Civil servant, I think there is a possibility of this danger arising. Most public servants are in possession of certain official secrets which they come to know during the course of their administration. I am not at all prepared to disbelieve the possibility that it may be open for a civil servant after he retires and becomes a member of the legislature to use the secret knowledge which he may possess. Take the next case; a teacher of any school, college or university for one year. Take a primary school in the village. What is his knowledge ? What is his information ?

Sardar Hukam Singh: Are these persons debarred from standing ?

Dr. Ambedkar: That is my main argument. I am coming to that. Therefore, I cannot see much in that. Take the next category, volunteer in a recognised association for social service. Will my hon. friend Sardar Hukam Singh permit for instance, the Mahabir Dal to be a body the membership of which would qualify one to stand ? May I mention the R.S.S. and the Akali Dal ? Some of them are very dangerous associations. It may be that one Government may recognize them and another Government may not recognize them, all these posibilities are there.

Shrimati Durgabai (Madras)**:** Can they be excluded ?

Dr. Ambedkar: I am coming to that. What I was trying to submit to the House was that none of the categories which have been set out in this amendment are of such a character as to give anybody the impression that the membership of the particular body to which they belong is such as to make them more efficient members of parliament. I am sorry I give a very positive answer to that question. Now the other thing that I wish to say is this : Is there anything in the Constitution or in the present Bill which can prevent an elector from electing any one of the people mentioned here ? Suppose, for instance, there are two candidates, one who is just a voter and is not disqualified under our disqualifications and as

against him there is a candidate who has been a member of a legislative chamber for one year. Is there anything under which we are required to suppose that the electorate will not give preference to the second man and no the first ? Take each one of these ; they are free to stand aid if the electorate thinks that there is something in them more valuable from the point of view of giving greater efficiency to Parliament, I do not quite understand why the electors will not give preference to these people as against a mere voter who is a citizen and no more. It seems to me, therefore that on these grounds, this amendment is unnecessary and I oppose it.

Sardar Sochet Singh (P.E.P.S.U)**:** You have not said anything about the category of those who are able to read and write Hindi.

Dr. Ambedkar: I replied to it last time. I should have thought that that would certainly create complications. This matter was considered at great length when we were framing the Constitution. Why did we make a provision 'after 15 years' and not make Hindi to come into operation as a national language immediately ? Because, we realised that there were various parts of the country where Hindi was not the language of the people and therefore some amount of time must be given to the people to study. After having recognised that principle, suddenly now to derogate from it seems to me to be going contrary to the sprit of the Constitution.

The motion of Prof. K. K. Bhattacharya was negatived.

***Clause 4.**—(*House of the People membership*).

Shri B. K. Das (West Bengal)**:** I beg to move.

In clause 4, after the words "Jammu and Kashmir" insert the words "or to the Andaman and Nicobar islands".

Mr. Deputy Speaker : Amendment moved **:**

In clause 4, after the words "Jammu and Kashmir" insert the words "or to the Andaman and Nicobar Islands".

Dr. Ambedkar: I accept the amendment.

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*P. D., Vol. 11, Part II, 14th May 1951, pp. 8699-700.

Sardar Hukam Singh: I would request the Hon. Law Minister to consider whether it would not be better to have this amendment in the definition of "election". Sub-clause (d) of clause 2 says : 12 NOON

> " 'election' means an election to fill a seat or seats in either House of Parliament or in the House or either House of the Legislature of a State other than the State of Jammu and Kashmir....."

So far as Jammu and Kashmir are concerned they are there and the Islands of Andaman and Nicobar may also be put in there, so that there will be no necessity of repeating it anywhere else.

***Shri Hussain Imam :** The difficulty does not arise because the man has to be an elector in any State not necessarily in the State in which he is standing. Therefore the choice of the President is open and he can nominate a person who is an elector in any constituency in India.

Mr. Deputy Speaker: That would exclude the residents of the Andamans and Nicobars. They cannot be registered as electors in any other place because of the residential qualification.

The Minister of State for Transport and Railways (Shri Santhanam): Does "chosen" include nomination also?

Mr. Deputy Speaker: Yes, both election and nomination.

Shri Sidhva: Cannot we amend the language ? The Government will certainly know who is who in the Andamans and they would suggest the name for nomination.

Mr. Deputy Speaker: A person should be otherwise qualified to be an elector and should have residential qualification.

Dr. Ambedkar: The simplest method is to accept the amendment. As you have pointed out the obstacle arises from sub-clause (*d*). We have no parliamentary constituency in the Andamans and therefore this would create difficulty in the

*P. D., Vol. 11, Part II, 14th May 1951, pp. 8701-02.

matter of giving representation to the people of the Andamans and Nicobars. Therefore this amendment in my judgement is a necessary one.

Mr. Deputy Speaker: As to the future it can take care of itself. Any amendment can be moved. It is not as if this Act will stand as it is without any amendment before the next elections. We are all the time gaining experience. The question is:

> In clause 4, after the words "Jammu and Kashmir" insert the words "or to the Andaman and Nicobar Islands".

The motion was adopted.

Clause 5—(*Legislative Assembly membership*).

***Dr. Deshmukh:** May I be permitted to move Prof. Shibban Lal's amendment. Sir ?

Shri Santhanam : These amendments of Prof. Saksena are consequential amendments. They were not allowed earlier on clauses 3 and 4.

Dr. Deshmukh : Does not matter. We can give this facility to State Legislature elections although, it is barred so far as the Parliament is concerned.

Dr. Ambedkar: No. no. The electoral roll is the same.

Mr. Deputy Speaker: Yes.

Shri Sonavane : Sir, I also desire to move two amendments to clause 5 notice of which I have given this morning.

Mr. Deputy Speaker : But I have not got a copy of those amendments.

Dr. Ambedkar: Nor have I got a copy.

Mr. Deputy Speaker : Unless the amendment is given to the Hon. Minister and Government is prepared to accept it, I shall not allow it now.

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*P. D., Vol. 11, Part II, 14th May 1951, pp. 8763-64.

***Shri Naziruddin Ahmad:** But if we put Scheduled Castes and Scheduled Tribes together in part (a) there would be duplication in part (b). But part (b) deals only with Scheduled Tribes and therefore for the sake of greater clarity it is necessary to separate the two parts of part (a), namely the Scheduled Tribes and the Scheduled Castes. With regard to part (b) it should remain as it is. In fact, Scheduled Tribes are of two classes ; Scheduled Tribes in ordinary cases and Scheduled Tribes who have something do with the cantonment or the municipality of Shillong. So, in order to keep the Scheduled Tribes of the cantonment area and the Scheduled Tribes in other areas absolutely distinct, I suggest that the Scheduled Castes and Scheduled Tribes must be treated separately.

Mr. Deputy Speaker: There does not appear to be any ambiguity.

Dr. Ambedkar: There is no ambiguity. Because the Constitution contains two separate articles, it does not follow that we must everywhere give two separate clauses.

Mr. Deputy Speaker: Is it necessary to pursue this matter ?

Shri Naziruddin Ahmad: In view of the unfavourable reception it has received at the hands of the Hon. Minister. I do not think any useful purpose would be served by my pursuing it.

Mr. Deputy Speaker: The question is :

"That clause 5 stand part of the Bill."

The motion was adopted

Clause 5 was added to the Bill.

Clause *6*.—(*Legislative Council Membership*) as amended, was added to the Bill

**** Clause 7.**—(*Disqualifications for membership*)

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*P.D., Vol. 11, Part II, 14th May 1951, pp. 8705-06.

** *Ibid.,* pp. 8706-12.

Dr. Ambedkar: Sir, I would request you to hold over clause 7.

Shri Naziruddin Ahmad: We should have a clear knowledge beforehand as to what clauses would be taken up. In that case we can concentrate our attention on them.

Mr. Deputy Speaker: I shall ask the Hon. Minister to state in the beginning of each day the particular clauses he proposes to hold over...

Dr. Ambedkar: I do not suppose I would be forced to take any clause out of order, except clauses 7 and probably 9. The rest of the clauses I am quite prepared to take in the order in which they are.

Shri Jhunjhunwala (Bihar)**:** When will these be taken up ?

Dr. Ambedkar: I propose to circulate the amendment this evening. If hon. Members would be prepared to take it up tomorrow I shall have no objection. But if they desire to have time, I shall take it up later. At any rate, I do not want to keep it back for a long time. I am prepared to give one day for Members to consider my amendment to clause 7.

Mr. Deputy Speaker: I think it may be taken up conveniently day after tomorrow for the reason that hon. members may have sufficient time to study it. If the amendments are tabled sufficiently in time, the office will circulate them and hon. Members may come prepared with them.

Clause 8 was added to the Bill.

Clause 9.—(*Disqualifications for membership of electoral colleges*)

Dr. Ambedkar: I would like to hold it over.

Mr. Deputy Speaker: Clause 9 is also held over.

Clause 10.—(*Election to the Council of States*)

Shri Naziruddin Ahmad: I beg to move:

> In the heading over clause 10, for the word and Roman letter "Chapter I" substitute the word and Roman letter "Chapter V".

The point is that in this Bill, unlike many other Acts, separate Chapter No. has been given in each part. That would lead to inconvenience in the matter of reference, *e.g.,* whenever we refer to a Chapter, we shall have to say, Chapter so and so of Part so and so. In all other Acts, except of course in the Constitution, namely, the Civil Procedure Code, the Criminal Procedure Code, the Transfer of Property Act and in all other Acts, although there are parts, the Chapter Nos. are not separate with regard to each Part. The result is tremendous convenience. When we refer to a Chapter, we need not refer to the Part. That will lead to the avoidance of a lot of mental botheration. I suggest it as a matter of convenience only.

Dr. Ambedkar: I do not agree with that argument. If dividing the Bill into Parts and Chapters we had also given separate numbers to clauses, that would have created a certain amount of difficulty. But in view of the fact that the number of the clauses is continuous I do not think any difficulty such as the one anticipated by my friend can be really apprehended.

Shri Naziruddin Ahmad : But this is the uniform practice in all the Acts.

Dr. Ambedkar: Never mind uniformity. It depends upon how big the matter is. If the matter is so big that it requires to be divided and sub-divided under appropriate heads I do not see what other method one can follow than giving Parts for broader heads and Chapters for smaller heads which come under those Parts and many other smaller heads which come under those Chapters.

Shri Naziruddin Ahmad: The Hon. Minister says that there should be Parts, Chapters and sub-divisions and further sub-divisions. I do not object to that at all. All that I want is that the Chapter numbers from beginning to end should bear a continuous numbering and that is in accordance with the practice of all Acts.

Dr. Ambedkar: That means that the parts must be omitted, otherwise it would have no meaning.

Mr. Deputy Speaker: If the Chapters have a continuing number and if the Parts also are there it will lead to confusion. We will not know to which particular part it relates.

Shri Naziruddin Ahmad: But that is the practice in all Acts.

Mr. Deputy Speaker: But when the Constitution has set up a new practice, after the Constitution, that is our Bible.

Shri Naziruddin Ahmad: Not in all respects. We are going to change it very soon!

Mr. Deputy Speaker: Very good. Then this will also be changed ! Is it necessary for the hon. Member to press this ?

Shri Naziruddin Ahmad: No. Sir.

Mr. Deputy Speaker: The next amendment is No. 222 which says:

> In sub-clause (*1*) of clause 10 for the words "the Council of States", in line two substitute the words "the first Council of States".

The hon. Member will kindly explain what this amendment is. Or, is he not pressing it ?

Shri Naziruddin Ahmad : I do not know where I am. The House is proceeding so fast that even an acrobat will not be able to follow. I will have to look into the matter.

Mr. Deputy Speaker: The brake is always there at that end !

Shri Naziruddin Ahmad: Could we not adjourn till tomorrow ? We have made very quick progress.

Mr. Deputy Speaker: This must be easy. The hon. Member will take his own time. There is no hurry. In 222 he wants for the words "the Council of States" the words "the first Council of States". Is it because he thinks there is no provision here for rotation ?

Shri Naziruddin Ahmad: Yes, Sir.

Dr. Ambedkar: Rotation is there in sub-clause (2).

Shri Naziruddin Ahmad: I have now got my bearings ! The introduction of the word "first" was suggested to me from a sample which is to be found in clause 11 in the second line—"For the purpose of the first constitution".

Mr. Deputy Speaker: That is in respect of electoral colleges for Part C States. That relates only to a portion.

Dr. Ambedkar: They have no connection at all.

Shri Sidhva: He is puzzled.

Shri Naziruddin Ahmad: Not that they are connected. but as a sample of very good draftsmanship.

Mr. Deputy Speaker: The hon. Member must be satisfied with some bad drafting!

Shri Naziruddin Ahmad: We are already accustomed to it.

Mr. Deputy Speaker: But there does not seem to be any need for this change. So amendment No. 222 is not moved.

I take it that amendment No. 224 is going to be moved. What about 225 ?

Dr. Ambedkar: I have no objection. It can be moved.

Mr. Deputy Speaker: What about No. 228 ?

Shri Naziruddin Ahmad: I shall move that.

Mr. Deputy Speaker: No. 229 is going to be carried out. Then we come to No. 231.

Shri Naziruddin Ahmad : It is a substantive amendment and I will move it.

Mr. Deputy Speaker: Amendment No. 224. The hon. Member is absent. Shall I allow this to stand over ? What is the attitude of the Hon. Minister to this amendment which the hon. Member was discussing with him ?

Dr. Ambedkar: I do not think it is necessary to have that amendment.

Amendment made:

In part (a) of sub-clause (*1*) of clause 10, for the words "orders thereunder" substitute the words "orders made thereunder".

—[*Shri Naziruddin Ahmad*]

Mr. Deputy Speaker: Then we come to amendment No. 231 standing in the name of Mr. Naziruddin Ahmad.

Shri J. R. Kapoor: That amendment is out of order, it cannot be moved as it is.

Mr. Deputy Speaker: Let me see.

Shri J. R. Kapoor: May I refer you to Article 80 of the Constitution, sub-clause 4, according to which only the elected members of any Assembly can elect members to the Council of States ?

Dr. Ambedkar: There is provision for certain nominations for Anglo-Indians.

Shri J R. Kapoor: There may be nominated members but they have no right to participate in the election. There is article 30(4) according to which only the elected Members of any Legislative Assembly can participate in the election of the Members to the Council of States.

Mr. Deputy Speaker: I am afraid this is out of order.

Shri Naziruddin Ahmad : My amendment is out of order ; not I.

Mr. Deputy Speaker: All right, the amendment is out of order, not allowed to be moved

Shri J. R. Kapoor: But, we have come to identify the hon. Member with his amendment.

Mr. Deputy Speaker: The question is :

"That clause 10, as amended, stand part of the Bill."

The motion was adopted.

Clause 10, as amended, was added to the Bill.

Clause 11.—(*Notification for constitution of electoral colleges*).

Mr. Deputy Speaker: Amendment No. 238. I think this will be taken notice of by the draftsmen. Amendment No. 239. I think it is a printer's mistake. It will be corrected by the draftsmen.

Shri J. R. Kapoor: It has already been corrected by the corrigenda.

Mr. Deputy Speaker: There is nothing in the correction slip. Why should this be out to the House ? It is a Printer's mistake. I will ask the office to note it and the Hon. Minister may also note it down so that it may be useful for reference later.

Dr. Ambedkar: There is no corrigenda on the subject. It may therefore be better to accept the amendment.

Shri Santhanam: It is only a printer's mistake.

Mr. Deputy Speaker: Instead of 'this', it has been printed as 'his' That was not the intention of the framers of the Bill. It is only a printer's mistake. Tomorrow, a spelling mistake may occur in the Gazette. I shall in the end formally say that all such formal corrections may be carried out. I am not satisfied that I should bring it to the notice of the House. Once again, a spelling mistake may be committed in the final draft. However, to avoid any difficulty, I will put it to the House. The question is:

> In clause 11, for the words "in his behalf" substitute the words "in this behalf".

The motion was adopted.

Mr. Deputy Speaker: Amendment No. 240.

Shri Naziruddin Ahmad: That is necessary.

Dr. Ambedkar: Singular includes plural. This amendment is not necessary.

Mr. Deputy Speaker: Yes, singular includes plural. The question is:

> "That clause 11, as amended, stand part of the Bill."

The motion was adopted.

Clause 11, as amended, was added to the Bill.

Clause 12.—(*Elections to the House of the People*).

Mr. Deputy Speaker: No amendment is being moved to clause 12.

Shri Naziruddin Ahmad : I suggest amendment No. 246 may be considered.

Mr. Deputy Speaker: But the Member who has proposed it does not want to move it now. What is the particular importance of it ? It says :

> In sub-clause (2) of clause 12, omit the words "in order that a new House of the People may be constituted".

Shri Naziruddin Ahmad : We should supply the machinery only, we need not give the purpose behind it.

Dr. Ambedkar: These words do not do any harm.

Mr. Deputy Speaker : I do not give permission to the hon. Member to move this amendment. It is not necessary.

Dr. Deshmukh: Sir. I want to say some thing ?

Mr. Deputy Speaker: The hon. Member is always late. What does he want to say now ?

Dr. Deshmukh : Sir, I have given notice of an amendment to clause 15, but I find that at this stage it is relevant. There should be some provision, somewhere to say that the first general elections both for Parliament and for the State Legislatures should be held simultaneously, on one and the same day.

Mr. Deputy Speaker : That is going to be the case, to save expenditure. Subsequently there may be bye elections at different times, because some Houses may be dissolved before others and so on. I do not think such an amendment is necessary.

The question is:

> "That clause 12 stand part of the Bill".

The motion was adopted.

Clause 12 was added to the Bill.

Clause 13 was added to the Bill.

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* **Mr. Deputy Speaker:** Let us hear the Hon. Minister.

Ch. Ranbir Singh (Punjab)**:** Sir, so far nobody has spoken in support of the amendment and everybody, who has spoken so far, except Pandit Thakur Das Bhargava, has opposed the amendment. I would request you to give a chance to somebody who is likely to support the amendment.

Shri Syamnandan Sahaya (Bihar)**:** Are you supporting the amendment?

Ch. Ranbir Singh: Yes ; I stand to support the amendment.

Mr. Deputy Speaker: The Hon. Minister would like to intervene. Let us hear the Hon. Minister.

The Minister of Law (Dr. Ambedkar): Yes, I should like to make a few observations.

The object underlying this amendment is, no doubt, very laudable. I do not think that looking at the mere motive and the objective, there could be much objection to the amendment. But, added to the motive, there are certain other provisions contained in this amendment which are intended to give the motive and the object its proper effect. It is from that point of view that I find it difficult to accept the amendment.

The amendment empowers the President to carry out the objects mentioned in this new amendment. No doubt, the Mover of the amendment thinks that the amendment has no political complexion. I should have thought that the introduction of the President in this business is enough to give a political colour to it for the simple reason that although the President, as an individual, as the Head of the State, may be above all parties and party considerations, there is no doubt at all that in giving effect to this particular amendment, the President as usual will have to act upon the advice of the Ministry. No one can have any doubt that the Ministry is a political institution of the day. It is therefore very difficult.....

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*P.D., Vol. 12, Part II, 15th May 1951, pp. 8755-57.

Shri Kamath: This is an all-parties Ministry.

Dr. Ambedkar: That is a different thing. It is therefore very difficult to be sure in the interests of fair elections that nothing will be introduced in the text of the Message which may not be objected to by some political party. I submit, therefore, that it would be wrong to bring in the President in the political arena charged with emotion and bitter feelings as it is likely to be in the course of the elections.

Another thing I find is that the amendment speaks of the purposes being carried out by a prescribed authority. There is no mention in this amendment as to what is to be this prescribed authority, or who is to prescribe this particular authority. Again, if the prescribed authority is to be the State Governments in the various parts of India or the administrative agents who are working under the State Governments, there again, we are introducing a very dangerous political instrument in a proposition which, apart from all other things, is, no doubt, as I said, very laudable. Again, the requirement that it shall be read in every village, and every *mohalla* seems to me to demand too much from the administrative machinmery. What is to happen if the Message is not read in some villages and in some *mohallas ?* Is the election to be held over until that requirement is satisfied? There is no mention about it in the whole of this amendment. Therefore, from political and administrative points of view, I think the amendment is a very impracticable one.

However, there is I think, another aspect of the matter which might be taken into consideration in determining one's view as to whether this amendment is to be accepted or not accepted. Supposing there was no such amendment as suggested by my friend, is it not possible to suppose that the purpose of this amendment will be given effect to by the various political parties themselves ? I am sure about it that every party will cherish the underlying object and therefore, I cannot see what can prevent all the political parties and each one of them, trying to issue some kind of a message as is mentioned in the opening part of this amendment, that there is our Constitution which has got a Preamble and we

are supposed to give effect to the Preamble and to the Fundamental Rights and the Directive Principles. So let each one of us try our level best to select the proper candidates in order to give effect to the Fundamental Rights and the Directive Principles and the Preamble to the Constitution. I therefore submit that even if such an amendment were not to be carried—and I think it cannot be carried by reason of the administrative difficulties I have referred to—the purpose of it would undoubtedly be given effect to by the various political parties. I therefore suggest that rather than accept this amendment I would leave the matter to the various political parties to give effect to it in the best way they think it can be done.

Shri Kamath : Is the Hon. Minister not in favour of every political party making free use of the radio ?

Dr. Ambedkar: I think that is a matter which really requires to be considered. I have paid some attention to this question of the radio, both in England and in Australia. When the question is raised at the appropriate stage. I shall be glad to make such observations as I can profitably make for the House.

Mr. Deputy Speaker: Is it necessary to pursue this matter after what the Hon. Minister has just now stated ?

Clause 14 to 16 were added to the Bill

Clause 17.—(*Definition*)

***Shri Naziruddin Ahmad** (West Bengal)**:** The point is we have two Councils. In order to prevent confusion we should call the State Council as Legislative Council as we call the Upper House as Council of States.

Dr. Ambedkar: I do not accept it. All these terms are defined in the Representation of the People Act.

Shri Naziruddin Ahmad: Then I do not press the amendment.

*P.D., Vol. 12, Part II, 15th May 1951, pp. 8764-65.

Mr. Deputy Speaker: The question is :

"That clause 17 stand part of the Bill."

Clause 17 was added to the Bill.

Clause 18.—(*Returning Officer for each Constituency*)

Sardar Hukam Singh (Punjab)**:** I beg to move.

In clause 18, for "who shall be such officer of Government as" substitute "whom".

*** Dr. Ambedkar:** It is difficult to accept this amendment. I agree with my friend Sardar Hukam Singh that we might to some extent depend upon non-official agency. Certainly our election would be much quicker if we can expand the staff under the Election Commissioner by drawing upon people who are not in the administrative service of the Government. But at the same time we have to recognise that all the Governments and bodies whom the Government of India had consulted in this matter have insisted that the machinery should be entirely official. That being so I am afraid it is not possible to accept the amendment.

****Shri J. R. Kapoor:** I beg to move:

In the proviso to sub-clause (2) of clause 20, at the end, add :

"In which case the seniormost Government servant among the Assistant Returning Officers shall perform the said functions."

Mr. Deputy Speaker: Who is to decide as to who is the seniormost ?

Shri J. R. Kapoor: The answer is very simple. There is a civil list which gives the seniority of officers.

Mr. Deputy Speaker: But if they are from different Departments ?

Shri J. R. Kapoor : If the point is that my suggestion does not solve difficulty, we can find out some method by which

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*P. D. Vol. 12, Part II, 15th May 1951, p. 8765.

***Ibid.,* pp. 8774-75.

it could be specifically laid down as to which one of the Assistant Returning Officers should perform the functions. If there is any difficulty in accepting my amendment in the present form, this might be kept in mind in forming rules. My object is that nothing should be left to uncertainty.

Dr. Ambedkar: I do not accept this amendment. It should be remembered that we are dealing with three functions; acceptance of nomination paper, scrutiny of nomination papers and the counting of votes in certain contingencies. It does not seem to me that any of these functions are of such a special character as to require an officer of such a type that in him only we can put confidence and in no other. Unless my friend is able to satisfy me that these functions are such that they require some kind of a special character or confidence in the officer, I do not see why one assistant Returning Officer should not perform these functions in the same manner as any other.

Shri J. R. Kapoor: That is the presumption in the proviso.

Dr. Ambedkar: The idea of my hon. friend is to grade officers ; the seniormost, the next seniormost, the juniormost, etc. I do not understand why this should be done unless the functions are of such a character that we must be sure that the man in whom we can lodge the highest confidence is the man who should perform it. And it might create administrative difficulties as well.

Mr. Deputy Speaker: I think there is one point in the amendment. The Election Commission may appoint one or more Assistant Returning Officers to assist the Returning Officer. Let us assume that two persons are appointed and suddenly the Returning Officer stays away without leaving any instructions. There are two persons on the spot. Which of them is to Act ?

Dr. Ambedkar: Any one of them may

Mr. Deputy Speaker: Suppose each one thinks it is the duty of the other man. What happens ?

Dr. Ambedkar: Suppose there are two Benches. Whichever Bench is there, the Registrar of the High Court puts the case before the Bench and the Bench hears it. One may go to one and another to the other.

Pandit Munishwar Datt Upadhyay: One may pass one order and another may pass another order.

Mr. Deputy Speaker: How can that be ?

***Shri Raj Bahadur** (Rajasthan)**:** That word 'unvoidably' is very important. In my humble opinion, the amendment that has been moved by Mr. Kapoor is not worthy of acceptance, in so far as it is specifically provided that no assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions. The Returning Officer has got to supervise and control in the discharge of that function. He can nominate one of his Assistants to perform a particular job. It is perfectly within his competence as a Returning Officer and in the exercise of his control to select one out of so many of his assistants to do a particular job. Where there is a difficulty, he can appoint one of them.

Shri P. Basi Reddi: How could he authorise ? Suppose by accident he is prevented on the way, what will happen ?

Dr. Ambedkar : I am afraid that a large number of bogeys are being raised in order to press a point to which some people seem to be quite attached. The position is this and I think lawyer Members would understand what I am saying.

Shri Sidhva: Quite the contrary.

Dr. Ambedkar: We know in law the distinction between what is called 'court' and what is called *persona designata*. In certain cases although a person may be a member of the court or forming a court for certain other purposes, he is specifically designated, so that he himself must perform the functions and he is not a 'court'. The same principle

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*P. D., Vol. 12, Part II, 15th May 1951, pp. 8780-83.

underlines this. The Returning Officer—whoever is appointed beccomes a *persona designata*—must perform personally those functions. Then the proviso says that although he is a *persona designata* and must perform some of the functions mentioned in the proviso, in certain circumstances, namely, those mentioned in the last sentence of the proviso, the other persons who are working under him, that is, the Assistant Returning Officers shall become *persona designata and* step into his shoes. That is what it means.

Pandit Manishwar Datt Upadhyay : Which of them ?

Dr. Ambedkar: Any of them may step into his shoes. I do not understand it but my hon. friend Mr. Santhanam said that at the most there might be one. Well we will take the other contingency that there are two. Supposing if two are sitting, both of them are *persona designata*. Any one can go to A or to B and both of them can discharge the functions of a Returning Officer.

Pandit Thakur Das Bhargava: The difficulty will arise about scrutiny of the nomination papers by each Assistant Returning Officer acting as Returning Officer.

Dr. Ambedkar: I am sorry and I want to draw attention to the fact that rather inadvertently I accepted Mr. Naziruddin Ahmad's amendment for substituting the word 'functions' for the word 'function' I think that is not correct. The original word is singular, that is, 'function' is the correct one and that is where the difficulty has arisen because he may be absent on the day of nomination. The Returning Officer may be present on the day of scrutiny and so the scrutiny will be done by him.

Mr. Deputy Speaker: This can be corrected only in the third reading by amendment.

Dr. Ambedkar: I want to draw attention to the fact that because an Assistant Returning Officer accepts the nomination papers he must also perform the function of scrutiny and he must also perform the function of counting. That is not so.

Shri Hanumanthaiya: The difficulty is about the words "unavoidably prevented" and that may be a subject for interpretation in a court of law.

Dr. Ambedkar: What is the other word that you will supply?

Shri Hanumanthaiya: I will suggest a solution. Instead of the words 'unavoidably prevented' let the word 'absent' be used. Then there will be no controversy.

Dr. Ambedkar: I do not want him to be absent. That is my point. Once he is appointed to perform the duty and especially when he is regarded as a *persona designata* it should be obligatory upon him that notwithstanding other functions, he must attend to this function first.

Shri Hanumanthaiya: Then it can easily be answered in a court of law. 'Unavoidably prevented' is a matter of proof.

Dr. Ambedkar: It may be a matter of proof.

Shri P. Basi Reddi: Why not give previous authorisation to one of the Returning Officers ?

Mr. Deputy Speaker: He has answered that point. This argument is getting endless. If he was not really unavoidably prevented and if it is only a question between the Returning Officer and the Assistant Returning Officer, it does not matter. The point is that the election may be called in question. Is there any posibility to rectify this?

Dr. Ambedkar: I think that is a matter between the Election Commissioner and the Returning Officer so far as I can interpret it.

Shri T. T. Krishnamachari (Madras)**:** In sub-clause (2) the words are: "Every Assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all the functions etc." So this is the only limitation.

Dr. Ambedkar: The last portion is not the enacting portion; the earlier portion is the enacting portion. The Election Commission may take the Returning Officer to task if it came to know that he absented himself without any unavoidable reason.

Shri Hanumanthaiya: As the Deputy Speaker pointed out, it may be between the Returning Officer and the Assistant Returning Officer but what about the candidates in the election ?

Dr. Ambedkar: It is quite enough for the candidate to prove that the Returning Officer was absent. Whether he was absent for any unavoidable reason or not is a matter to be regulated by the Election Commissioner.

Pandit Thakur Das Bhargava: It has to be proved whether he was unvoidably prevented or not.

Shri Raj Bahadur: May I put a question to Mr. Hanumanthaiya ? Who will decide whether the absence was unavoidable or not; Election commissioner or the officer concerned ? The Election Commissioner knows whether he was unavoidably absent or not.

Pandit Thakur Das Bhargava: The Tribunal shall have to decide if he was unavoidably prevented.

Shri Shiv Charan lal (Uttar Pradesh) **:** I think it will be all right if only one line is added, that if there are more than one Assistant Returning Officer, the Returning Officer shall nominate one of them as the seniormost one.

Mr. Deputy Speaker: That has already been said. That is Mr. Kapoor's amendment. Now, I shall put Mr. Kapoor's amendment to the House.

Shri Hanumanthaiya: I want to make a motion...

Mr. Deputy Speaker: That we will come to later.

Shri Hanumanthaiya : With respect to this clause I make a definite motion that this clause may be taken up later for consideration.

Mr. Deputy Speaker: The question is:

"That further consideration of clause 20 be postponed."

The motion was negatived.

***Shri Barman :** Let me make the position clear, from my personal experience. In my constituency, two districts are tagged together and the Divisional Commissioner is the Returning Officer. We have all along been submitting our nomination papers to the personal assistant. This has gone so for a very long time.

Dr. Ambedkar : If I Understand the hon. Member correctly, what the amendment means is this. In the Proviso as it stands, three functions can be performed by the Returning Officer, or the Assistant Returning Officer in the absence of the Returning Officer. They are : acceptance of nomination paper, scrutiny of nominations and the counting of votes. What my hon. friend wants by his amendment is that only two functions may be performed, that is scrutiny of nominations and counting of votes.

Mr. Deputy Speaker : The wording is, shall not perform these two unless the other is unavoidably absent.

Dr. Ambedkar : There is no such thing in amendment No. 284.

Shri Barman : I want elimination of that clause only.

Dr. Ambedkar : That is the sub-clause relating to acceptance of nomination paper and the rest will remain ?

Shri Santhanam : Both the Returning Officer and the other Assistant Returning Officer will be *persona designata.* That will be the result.

Shri Barman : So far as scrutiny and counting of votes are concerned, they are important and they should remain with the Returning Officer. In case he is unavoidably absent, some other Assistant Returning Officer may do them.

Dr. Ambedkar : There is a vast difference between the two sides.

Shri Barman : But, so far as acceptance of nomination paper is concerned, my submission is this. This filing of nomination papers goes on for days together. If the Returning

*P.D., Vol. 12, Part II, 15th May 1951, pp. 8784-86.

Officer alone is authorised to accept them, then he will have to be present all the 24 hours in the station. That is not always possible.

An hon. Member : It is only from eleven to three.

Shri Barman : But, it goes on all the days. Even the assistant receives the nomination papers. He will only have to scrutinise whether the nomination paper tallies with the voters' list, and whether the deposit has been made. Scrutiny is done by the Returning Officer on a fixed date.

Dr. Ambedkar : I do not understand why my friend is objecting to the acceptance of the nomination paper by a highly important officer such as the Assistant Returning Officer and prefers to lodge the paper with an assistant.

Shri Santhanam : The point is that the Assistant Returning Officer should be able to accept the nomination paper at any time without reference to the Returning Officer.

Mr. Deputy Speaker : The proviso says that the Returning Officer alone shall perform these functions. Three categories of functions are taken away from the Assistant Returning Officers. Normally, all the functions which a Returning Officer can discharge, can also be discharged by the Assistant Returning Officers. The earlier portion of the proviso says that these following three functions shall not be discharged by the Assistant Returning Officers except under an extraordinary circumstance, namely, that the Returning Officer is unavoidably prevented from performing the said function. Out of these three categories, he wants to remove one category. That means, that it is only in the case of scrutiny and counting of votes that the Assistant Returning Officers shall be prevented from discharging them unless the Returning Officer is unavoidably prevented. With respect to the acceptance, even if the Returning Officer is there, the Assistant Returning Officer may receive. Or, if he is not there, his unavoidably being prevented from performing the said function does not arise. Let us assume that he is not unavoidably prevented. He may come in at any time. The Assistant Returning Officer may receive. There is no harm. With respect to scrutiny and

counting of votes, he must be satisfied that the Returning Officer is unavoidably prevented. Let not the Assistant Returning Officer but in and exercise the functions of the Returning Officer which are of a more onerous nature. For receiving nomination papers, simultaneously he can receive. Suppose the Collector is the Returning Officer. The Deputy Collector who may be the Assistant Returning Officer will say, the collector is there and he will receive. That would normally happen. This appears to be reasonable. I leave it to the Hon. Minister.

12-00 NOON

Dr. Ambedkar : No change in the proviso is necessary. As we know, a lot of *gol-mal* takes place.

Shri Bharati : We would like to know what acceptance means really. Does it mean merely receiving the nomination or the final acceptance of it, which implies final rejection also in some cases ?

Mr. Deputy Speaker : It merely means scrutiny immediately at the first stage and receiving it. It is not the final acceptance.

***Clause 22.**—(*General duty of the Returning Officer*)

Shri Naziruddin Ahmad : I beg to move :

> In clause 22, for "It shall be the general duty" substitute "It shall be the duty".

Mr. Deputy Speaker : There is a presiding officer at a polling station and it is the special duty of the polling officer to receive papers. Likewise those are special duties. It is the general duty of the Returning Officer to arrange for these.

Shri Naziruddin Ahmad : If we say "It shall be the duty" of the officer, it will be general duty.

Dr. Ambedkar : I do not think that any harm can arise by the retention of the word 'general'. I have examined the matter and have seen that this clause is an exact verbatim reproduction of the English law. That also contains 'general'.

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*P. D., Vol. 12, Part II, 15th May 1951, pp. 8790-91.

Mr. Deputy Speaker : The question is :

In clause 22, for "It shall be the general duty" substitute "It shall be the duty".

The motion was negatived.

Mr. Deputy Speaker : The question is :

"That clause 22 stand part of the Bill".

The motion was adopted.

Clause 22 was added to the Bill.

Clause 23.—(*Provision of polling Stations etc.*)

Shri Venkatraman : As regards amendment No. 294 in the Consolidated List, I thought the Hon. Minister might say that he would include it in the rules.

Dr. Ambedkar : Such a provision will be made in the rules.

Shri Venkataraman : Then 1 do not move it.

Dr. Ambedkar : As regards amendment No. 295 of the Consolidated list, this also will be considered in the framing of rules.

Shri J. R. Kapoor : With regard to the second part of my amendment No. 293 of the Consolidated List, I understand that Law Minister is prepared to incorporate such a thing in the rules in which case I will not move the amendment.

Dr. Ambedkar : Yes.

Mr. Deputy Speaker : I will now put the clause to the House.

***Shri Shiv Charan Lal :** What I submit is this. If the Government is going to be very strict about any sort or conveyance being prohibited, the distance should be shortened. The polling stations should be more in number.

Dr. Ambedkar : Five points have been raised and I have been asked to make a statement on each one of them. The

*P. D., Vol. 12, Part II, 15th May 1951, pp. 8806-9.

first point is, the number of polling stations. I have been asked to say whether the Government would so arrange the polling stations that not more than a certain number of voters would be clustered or fixed for a particular station. It is very difficult for me to commit to any particular figure. But, I can say this that the Government will undertake to fix the number of polling stations on such a scale that from the point of view of the capacity of a polling station to put through a certain number of voters and from the point of view of distance, the polling stations would be so arranged in their numbers that no voter who is willing to vote and present himself to the officer for voting will have to go disappointed either on account of distance or on account of over-crowding.

The second question that has been raised is the fixation of the polling stations. I have been asked to say whether the authority of the election Commissioner in this matter would be final or whether there would be an opportunity for the persons interested to make representations to the Election Commissioner. It is quite obvious that persons, either voters or candidates, might be interested in having a particular polling station fixed at a particular place from the point of view that that suits them or gives them an advantage over certain other candidates. Obviously, no candidate or no voter could be allowed to have the final say in this matter. The ultimate authority must remain with the Election Commissioner. But, I am prepared to say this that arrangements would be made whereby before the election Commissioner finally fixes the polling stations, he will either invite representation or consult the people concerned in the matter before he makes his final decision.

Then I come to three other points which relate to the conduct of elections. One is the despatch of a voting card by Government to each voter. The second is the despatch on account of Government of an election manifesto of a prescribed length to each voter and the third is the supply of electoral rolls on a concessional basis. The House will realise that it is very difficult for me to commit the Government on this matter, by giving a definite opinion or assurance, for it involves finance. But speaking not as a member of the

government, but as a Member of the House. I have great sympathy with the first two proposals, namely, the despatch of the voting card and the despatch of an election manifesto. With regard to the supply of the electoral roll, it seems to me that if Government were to undertake the despatching of a voting card to such individual voter, the necessity for the supply of electoral rolls on a concessional rate or more copies than one, does not appear to me to be urgent. After all what a candidate does after putting the electoral roll is to come into contact with the voter and tell him his number and also the polling booth at which the elections will take place.

Dr. Deshmukh : What about the canvassers ?

Dr. Ambedkar : Well, I do not know whether any particular candidate will be so lucky and fortunate as to have the means to employ such a large number of canvassers as to put the candidate actually in touch with each voter. It seems to me quite an impossible task. The candidate must rely upon his own individual personality and depend on how far he is known to the public, and if he is already not known, do something by which he becomes notorious in the district so that everybody may know him (*an Hon. Member :* Notorious ?) Famous or notorious, whatever it may be.

I can quite understand that each candidate must have at least one set. Without that he cannot manage and that must not be prohibitive in price. Although I said that it involves financial consideration and I could give no assurance without consulting Government on this matter, I feel that the task of undertaking this responsibility has considerably eased on account of the suggestion made by Mr. Kapoor that there should be no great objection for distributing the cost between the Government and the candidate. I think that is a very reasonable and feasible proposal and I can assure the House that I will put this matter before Government and ask them to come to their own conclusions.

Dr. Deshmukh : Will this decision be announced during the course of the passage of this Bill ?

Dr. Ambedkar : Well, before you stand for election I will announce it.

Mr. Deputy Speaker : Order, order. I take serious objection to the Members moving about like this. A certain degree of decorum has to be maintained here.

The question is

"That, clause 23 stand part of the Bill."

The motion was adopted.

Clause 23 was added to the Bill.

Mr. Deputy Speaker : And the new clause 23A is not moved. Is there time to take up clause 24 ?

Hon. Members : No, Sir.

The House then adjourned till Half Past Eight of the clock on Wednesday, the 16th May, 1951.

REPRESENTATION OF THE PEOPLE (No. 2)—*contd.*

***Clause 24.**—(*Presiding officer for polling stations*)

Mr. Speaker : Amendment moved :

In sub-clause (1) of clause 24, for the words "in or about the election" substitute the words "in the election in question".

The Minister of Law (Dr. Ambedkar) : I do not accept it.

Mr. Speaker : Shall I put to vote both the amendments Nos. 299 and 300 ?

Shri Naziruddin Ahmad : I should like amendment No 299 alone to be put to vote. If that is rejected, amendment No. 300 does not arise.

Shri T. T. Krishnamachari (Madras) **:** May I ask the Hon. Law Minister to explain what he means by the words 'about the election' in the amendment ?

Dr. Ambedkar : The answer is simple. The word 'election' may be used in a narrower sense, that is to say the act of election, when polling takes place. On the other hand an election may have a larger context, of other acts relating to an election, that is to say other than polling. This is the reason why the words are there. They are exactly the words from the English statutes.

Prof. Ranga (Madras) : May I ask for an elucidation ? There are a lot of people who are Presidents and Vice-Presidents of Local Boards and also Ministers and Deputy Ministers. They have a number of these subordinates in the constituencies in which they stand as candidates. Would it be open to a Returning Officer to appoint such of the employees who are directly under their control as Polling Officers according to this provision ?

Dr. Ambedkar : I do not think any difficulty arises so far as this particular clause is concerned. All that it says is that any person who is employed by the candidate in or about the

*P. D., Vol. 12, Part XII, 19th May 1951, pp. 9098-9105.

election shall not be appointed as polling officer. If there is a servant of the District Local Board or the Municipal Board who is not so employed, he is free to be appointed.

Dr. Ambedkar : I do not think this amendment is necessary because the Returning Officer shall be a Government officer and if he fails to discharge his duty, he would certainly be liable to action either under the rules of conduct for the Government servants or under any law for misconduct.

Prof. Ranga : Or under the Rules under this Act.

Mr. Speaker : Does the hon. Member want me to put the amendment to the House ?

Shri S. N. Das : No, Sir.

Clause 28.—(*Appointment of dates for nominations*)

Mr. Speaker : Let me take the printed list. Master Nand Lal is absent. Mr. B. K. Das.

Shri B. K. Das (West Bengal) **:** Not moving, Sir.

Shri M. V. Rama Rao (Mysore) **:** Not moving. Sir.

Mr. Speaker : There are a number of amendments to clause 28 in the Supplementary List No. 1. I think the better course for me would be to put all the amendments of hon. Members that are here and then if any Member is left out, it will be his business to rise up. Amendment No. 76 in Supplementary List No. 1. Mr. Naziruddin Ahmad.

Shri Naziruddin Ahmad : Not moving.

Dr. Ambedkar : This has been disposed of already. This is an amendment which he has been moving all along for the purpose of changing the Chapters.

Mr. Speaker : He is not going to move it.

Shri Hussain Imam : Sir, the Hon. Minister of Parliamentary Affairs himself is standing when the Speaker is on his legs.

Shri R. K. Chaudhuri : Only small fries are caught.

Mr. Speaker : No question of big or small fries.

Dr. Ambedkar : I think Mr. Chaudhuri may devote his attention to more serious matters.

Mr. Speaker : In view of the time taken and in view of the points of order raised here. I think I had better say that those hon. Members who want to move their amendments may please stand up. No other ?

Several Hon. Members : No, Sir.

Shri Naziruddin Ahmad : I beg to move :

In part (c) of clause 28, for the words "date for the scrutiny" substitute the words "date appointed for the scrutiny".

My reason for bringing in this amendment is that the words "date for scrutiny" are rather loose and the words that I have suggested, *i.e.* "date appointed for the scrutiny" are more precise.

Dr. Ambedkar : I do not accept it.

Mr. Speaker : The question is :

In part (c) of clause 28, for the words "date for the scrutiny" substitute the words "date appointed for the scrutiny".

The motion was negatived.

Shri Naziruddin Ahmad : I beg to move :

In part (d) of clause 28, for the words "if necessary" substitute the words "where necessary".

The existing words "if necessary" indicate a condition precedent; but the words suggested by me, *i.e.* "where necessary" refer to the occasion.

Dr. Ambedkar : I am not accepting it.

Mr. Speaker : The question is :

In part (d) of clause 28, for the words "if necessary" substitute the words "where necessary".

The motion was negatived.

Shri Meeran : I now move amendment No. 328 standing in my name, in a slightly amended form which is acceptable to the Hon. Law Minister. I beg to move :

*P. D., Vol. 12, Part II, 19th May 1951, pp. 9114.

After sub-clause (5) of clause 31, insert the following new sub-clause :

"(5a) If at the time of the presentation of the nomination paper the Returning Officer finds that the name of the candidate is not registered in the electoral roll of the constituency for which, he is the Returning Officer, he shall for the purposes of sub-section (5) require the person presenting the nomination paper to produce either a copy of the electoral roll in which the name of the candidate is included or a certified copy of the relevant entries in such roll."

I don't think I need say much on this because the Hon. Minister has agreed to this amendment.

Mr. Chairman : Amendment moved.

Dr. Ambedkar : I have also given notice of an amendment to the same effect. So I agree to this amendment.

Shri Syamnandan Sahaya : I also had an amendment to clause 5 in this connection. My feeling is, why should the huge cost of supplying copies of the electoral rolls which is going to be heavy, be borne by the candidate ? Why should not a copy of the relevant entries of the electoral roll of the constituency only be produced ?

Dr. Ambedkar : The word there is "or".

Shri Syamnandan Sahaya : Yes, I am trying to explain. The option in this case lies with the Returning Officer.

Shri R. K. Chaudhuri : I strongly object to the amendment which has been moved by my hon. Friend. But in order to bring about a uniformity of decisions of all the Returning Officers in different places, it would I think be better to substitute the word "shall" for the word "may".

Shri Shiv Charan Lal (Uttar Pradesh) **:** I do not think that there is room for any fear, as expressed by my hon. friend Prof. Ranga and Shri Syamnandan Sahaya that the Returning Officer may not correct nomination papers, because it has been clearly laid down in section 34 that no nomination paper will be rejected on the ground of any technical mistake. Therefore,

whether he corrects it or not, it is not in his power to reject a nomination paper on the ground of technical mistake.

Shri Rudrappa (Mysore) **:** ..... There may be so many cases in these nomination papers where the date of birth has to be filled and if the candidate is living in the village he cannot get the date of birth.

Mr. Chairman : Date of birth ?

Shri Rudrappa : That will be one of the items. I am giving an instance. There will be the required age—above thirty or twenty years. How he may find out and put the correct date of birth, if necessary ..... There must be some scope for the Returning Officer to rectify these clerical errors and technical mistakes. If such a provision is not included, I think it will result in very great injustice to many and it will also result in great litigation even after the election. Therefore this provision is quite necessary in the interests of the candidates as well as in the interest of the elections and the electors themselves.

Dr. Ambedkar : I do not accept the amendment.

Shri Syamnandan Sahaya : Then I would like to withdraw it.

The amendment was, by leave, withdrawn.

Shri Syamnandan Sahaya : There is another amendment in my name (No. 14 in Supplementary List No. 3). This also is an attempt to clarify the position. The amendment reads :

In the first Proviso to sub-clause (3) of clause 31, after the word "candidate" occurring in line 2. Insert the words "for the reserved seats".

The proviso reads like this :

> "Provided that in a constituency where any seat is reserved for the Scheduled Castes or for the Scheduled Tribes, no candidate shall be deemed to be qualified to be chosen to fill that seat unless his nomination paper is accompanied by a declaration verified in the prescribed manner that the candidate is a member of the Scheduled Castes or of the Scheduled Tribes for which the seat has been so reserved....."

Now, we have in our experience found that sometimes the Returning Officers take queer views. Otherwise many difficulties in the matter of these nominations would not have arisen and there might not have been so many election petitions and cases. I therefore desire to clarify the position by adding the words " for the reserved seats" after the word "candidate".

Mr. Chairman : Has the hon. Member seen the words "to fill that seat" in the proviso ?

Shri Syamnandan Sahaya : Yes, Further on also it is said "for which the seat has been so reserved". I have seen all that. But I am suggesting the addition just to clarify the matter, because after all wherever there is a reservation there is one seat reserved and the other is a general seat. So if we add these words it appears to me to be a little clearer.

Dr. Ambedkar : There is no ambiguity and no such clarification is necessary.

Shri Syamnandan Sahaya : Then I will not press it.

Pandit Munishwar Datt Upadhyay (Uttar Pradesh) **:** I do not wish to move my amendment No. 317 in the Consolidated List but I want to make a suggestion to the Hon. Minister which he may accept.

My submission is that the phrase "and who is not subject to any disqualification mentioned in section 16 of the Representation of the People Act, 1950" is redundant and absolutely unnecessary ..... Why should we have so many words and so many lines unnecessarily although they do not add anything to the meaning ? That is what I would like to submit.

Dr. Ambedkar : It is an economy measure, I understand.

Pandit Munishwar Datt Upadhyay : As a matter of fact these words are absolutely unnecessary, because if he is an elector then he is not disqualified in that manner. Because that is the qualification of an elector given in the section to which it refers, that is section 16 of the Representation of the People Act, 1950. So I submit that it is absolutely redundant.

Dr. Ambedkar : It is better to be redundant than to be ambiguous.

Pandit Munishwar Datt Upadhyay : I do not think there would be any ambiguity.

Mr. Chairman : The Hon. Minister does not accept it.

***Pandit Munishwar Datt Upadhyay :** Before the existing proviso to sub-clause (2) of clause 31, insert the following new proviso :

> "Provided that any person whose name is registered in the electoral roll of the Constituency can subscribe as proposer or seconder on more than one nomination paper for the same candidate."

That point has not been provided for. It may be that he has signed one nomination paper. There may be some doubt about the entries. The same person as proposer can file more than one nomination paper in respect of the same candidate. I think that that should be allowed, and has been allowed in all the Election laws wherever they have been made. I think the Hon. Minister will have no objection to accept this.

Dr. Ambedkar : I cannot accept that.

Mr. Chairman : I am not going to put it to the House.

Shri A. C. Guha (West Bengal) **:** I want a clarification on this point.

Mr. Chairman : The point has been disposed of. The amendment has not been moved.

Shri A. C. Guha : I want a clarification whether it is the intention of the Government that a person cannot sign more than one nomination paper for the same candidate.

Mr. Chairman : The amendment has not been moved and it is not put to the House.

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*P. D., Vol. 12, Part II, 19th May 1951, pp. 2128-29

Shri Sonavane (Bombay) **:** I want some explanation as regards the first proviso to sub-clause (3) of clause 31, which says :

> "...unless his nomination paper is accompanied by a declaration verified in the prescribed manner that the candidate is a member of the Scheduled Castes or of the Scheduled Tribes for which..."

Dr. Ambedkar : That was discussed.

Shri Sonavane : I want some explanation. As regards the nomination of a Scheduled Caste candidate. I would like to know what would be the procedure of this verification in the case of a reserved seat. It is stated here, "declaration verified in the prescribed manner". The procedure may be laid down by the rules. As far as I know, the rules will not come before the House in spite of the wish expressed by me. Therefore, we would like to know what would be the procedure for the verification. Otherwise it would be very difficult for us. Suppose, we were asked to go before a magistrate, and sign an affidavit it will take a long time. If it is a simple procedure, say, obtaining a certificate from Dr. Ambedkar, who is a leading Member of the Scheduled Castes, that should be a sufficient and acceptable, that should be a sufficient verification. We should not be asked to go to a tout, wait there, and do all sorts of things. Suppose there is a local J.P. and if he gives a certificate to the effect that a person belongs to the Scheduled Castes, such a certificate may be accepted. At the eleventh hour, a person may choose to send his nomination and contest the elections. If he has to go through all this procedure, it would be very hard for him. Therefore in the interest of the simplification of the procedure. I would request the Hon. Law Minister to see that such an ordinary procedure is followed. If a respectable person of the locality or a Justice of the Peace gives a certificate that should be accepted.

Shri Ramaswamy Naidu (Madras) **:** In the second proviso to sub-clause (3) of clause 31, the last portion reads as follows :

> "..... unless the nomination paper is accompanied by a declaration verified in the prescribed manner that the candidate is a member of any of the Scheduled Tribes of that district....."

I wish to know whether the wording "of that district" does not imply that he must be a resident of that district.

Dr. Ambedkar : Yes. that is so.

Shri Ramaswamy Naidu : I want to know whether any resident of another district, even though he belongs to one of the Scheduled Tribes of that district would be excluded from seeking election in that constituency.

Dr. Ambedkar : Not at all; that is provided.

***Ch. Ranbir Singh :** (*English translation of the Hindi Speech*) Sir, I have a doubt regarding it and I want to get it clarified. There is a provision in it :

> "Provided also that where any person having held any office referred to in clause (f) of sub-section (1) of section 7 has been dismissed and the period of five years....."

I think the soldiers and officers of the Azad Hind Fauj are not affected by it, I want to know this thing. Whether this provision debars them as well ? And if this provision debars them then there should be some provision so that they may also acquire the right of participating in the elections.

Dr. Ambedkar : I did not quite follow what the last speaker said. I would like to make some observations with regard to the point raised in relation to the proviso to sub-clause (3) relating to the procedure that might be adopted for ascertaining whether a particular candidate was Scheduled Caste candidate. The hon. Member who referred to this point, has had, of course, no experience as to how many people have been trying to pass themselves on as members of the Scheduled Castes in order to obtain some of the advantages that have been prescribed for them under the law.

Shri Syamnandan Sahaya : Larger numbers are likely to come in.

Dr. Ambedkar : And larger numbers are likely to come in. I, as a Member of the Government have had some experience about this, as to how for instance. Hindus also

*P. D., Vol. 12, Part II, 19th May 1951, pp. 9130-31.

would grow a beard for six months, present themselves as Sikhs and obtain a job reserved for the Sikhs, and subsequently shave themselves clean up and return to the Hindu fold. Consequently, a rule has been made by the Government of India that any person for whom any reservation has been made, shall produce a certificate from certain recognised authorities that he belongs to that particular class. Such a provision, undoubtedly and beyond question, would be in the interests of the Scheduled Castes themselves. I think I cannot say what exactly is the procedure that the Commissioner would think of himself in order to ensure that nobody other than the Scheduled Castes stands for these reserved seats. I should have thought that there could be no harm if a provision was made that every person who wants to put in his nomination paper for a reserved seat should obtain a certificate from a magistrate on the basis of an affidavit signed in his presence that to their knowledge this man belongs to the Scheduled Castes.

It might be a laborious or troublesome process ; but I think it would be better to have it rather than leave loop-holes for any other person to come in a fight for the seat.

Mr. Chairman : The question is :

"That clause 31, as amended, stand part of the Bill".

The motion was adopted.

Clause 31, as amended, was added to the Bill.

Mr. Chairman : Does the hon. Member wish that I should put his amendment to the House ?

Ch. Ranbir Singh : I want to know the reaction of the Hon. Minister.

Dr. Ambedkar : I do not accept it.

Ch. Ranbir Singh : Then I would like to have the leave to withdraw it.

The amendment was by leave withdrawn.

Clause 32, as amended, was added to the Bill.

Clause 33 was added to the Bill.

Clause 34—(*Scrutiny of nominations*)

* **Shri Syamnandan Sahaya :** I have an amendment to this clause. It is No. 22 of Supplementary List No. 3. I beg to move :

> In sub-clause (2) of clause 34, for the word "refuse", substitute the word "reject".

Mr. Chairman : Amendment moved.

Dr. Ambedkar : I have no idea. It is a draftsman's point. My hon. friend will see that the draftsman seems to be using 'refusal' in respect of nomination and 'rejection' in respect of nomination paper.

He is making a distinction and I think that a distinction is consistent made by him throughout the clauses. I therefore think it is better to retain that now.

Mr. Chairman : Does the hon. Member want me to put his amendment to vote ?

Shri Syamnandan Sahaya : There may be others who may want to speak. I beg for leave to withdraw the amendment.

The amendment was, by leave withdrawn.

****Pandit Kunzru** (Uttar Pradesh) **:** I beg to move :

> To sub-clause (5) of clause 34, add the following Proviso :
>
> "Provided that in case an objection is made the candidate concerned may be allowed to rebut it not later than the next day but one following the date fixed for scrutiny and the Returning Officer must record his decision on the date to which the proceedings have been adjourned."

Shri Sonavane : On a point of order. The hon. Member has given no notice to the Members of this House and it was held by the Speaker previously and that no surprise should

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*P. D., Vol. 12, Part II, 19th May 1951, pp. 9156-57.

** *Ibid.,* pp. 9158-59.

be sprung upon the House. May I know whether this amendment moved at this juncture is admissible?

Pandit Kunzru : Sub-clause (5) requires that .....

Dr. Ambedkar : To shorten the proceedings, I would say that I am accepting the amendment.

Mr. Chairman : The Hon. Minister in charge is going to accept the amendment.

*** Pandit Munishwar Datt Upadhyay :** I will not repeat the objections taken by some hon. Members. In view of the difficulties that arise on account of the acceptance of this amendment. I would suggest the acceptance of amendment No. 348 in the printed list, namely the insertion of the words "beyond second day" after the words "adjournment of the proceedings." That will solve all the difficulties.

> "The Returning Officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of section 28 and shall not allow any adjournment of the proceedings beyond second day except....."

I do not think any such difficulty would arise in accepting that amendment.

Dr. Ambedkar : Apart from the question whether the existing rules in U.P. and other provinces contain such a rule as is stated in the amendment. I think it is possible for the House to consider this matter independently on its own merits. What is the Returning Officer's job ? His job is set out in sub-clause (2) of clause 24 that he shall decide upon the points stated there from (a) to (e). Those are the possible objections that a candidate may raise against another. It does seem to me that if one candidate is confronted with an objection falling, for instance under (b), namely "that the candidate is disqualified for being chosen to fill the seat under the Constitution or this Act" or if he is confronted with the objection falling under (e) that the signature of the candidate or any proposer or seconder is not genuine or has been obtained by fraud, it seems to me somewhat difficult that he should

* P. D. Vol. 12, Part II, 19th May 1951, pp. 9163-66.

be required to meet those charges immediately then and there. Therefore sheer equity would require that some time may be given to him in order that the candidate may either produce some documentary evidence or the oral evidence of some witnesses to disprove the allegation and it is on that ground that I felt inclined to accept that amendment, because otherwise it would be permitting one candidate to take another by complete surprise by not giving any time to disprove the allegation. I think that this is an amendment which certainly appeals to me and ought to appeal to everybody.....

Shri Santhanam : Will it be possible for the Returning Officer to accept those nominations for which no objections had been raised. He has to decide all the nominations at the same time.

Dr. Ambedkar : Where is the hurry for the man accepting some nominations. After all he has to accept the nominations on the final date after the adjournment. There is no harm. This will be done on the final day and that is what the amendment says. The amendment is very clear. The Returning Officer must record his decision on the date to which the proceedings have been adjourned. There is no discretion given to the returning officer to postpone decision.

Shri Santhanam : Cannot objection be taken on the postponed day also ? It must be made clear. Supposing on the other day some objection is raised.

Dr. Ambedkar : Objection must be raised on the day on which the scrutiny begins—there can be no objection on any other day except the date of scrutiny.

Mr. Chairman : The question raised by Mr. Syamnandan Sahaya and Mr. Hussain Imam is : is there any provision for such a contingency ?

Dr. Ambedkar : There is no provision. Can anybody make any provision ? Can anybody know how long the riot will last ? In Bombay the riot lasted sometimes for twenty-nine days. Therefore it must be left to the Returning Officer to be convinced that matters are peaceful and he can hold the scrutiny. How can anybody say in a law that if the Returning

Officer adjourns the scrutiny on the first day because there is a riot he should hold the scrutiny on the second day or the third day ? The riot may continue.

Mr. Chairman: That is so far as the time is concerned. But there should be some provision that the Returning Officer should make his scrutiny.

Dr. Ambedkar: It seems to me that it is quite implicit in the clause. Our dramatists have a habit. If I may say so. If somebody is dead they must carry the corpse on the stage, otherwise the audience does not understand it. As I said most of these things are implicit in the clause.

Mr. Chairman : I will now put Pandit Kunzru's amendment to vote.

The motion (as mentioned earlier) was adopted.

Shri Syamnandan Sahaya: I have an amendment to move, No. 24 in supplementary list No. 3. I beg to move:

> In sub-clause (4) of clause 34, for the word "refuse" substitute the word "reject".

The Hon. Minister pointed out that the word "refuse" has been used in reference to nominations and the word "reject" has been used in relation to nomination papers. I would like to draw his attention to sub-clause (4) of clause 34 where the word "refuse" has been used with reference to nomination papers. Perhaps "reject" may be accepted here.

Mr. Chairman : Amendment moved :

> In sub-clause (4) of clause 34, for the word "refuse" substitute the word "reject".

Dr. Ambedkar: If my friend's aesthetic sense is affected I am quite happy to give him satisfaction.

Shri Syamnandan Sahaya: As a matter of fact, in this House we have to care for the aesthetic sense of people sitting opposite—nobody cares for our aesthetic sense.

Dr. Ambedkar: In this case I will accept my hon. friend's amendment.

Shri. T. T. Krishnamachari: As regards scrutiny of nominations, may I point out, Sir, that direction may be given that clause 28(c) which has been passed by this House may be suitably amended in the third reading ?

Dr. Ambedkar: Yes, I have another amendment also to move at that, stage.

Mr. Chairman: I will now put Mr. Sahaya's amendment to vote. The question is:

> In sub-clause (4) of clause 34, for the word "refuse" substitute the word "reject".

The motion was adopted.

***Dr. Deshmukh :** I beg to move :

> In sub-clause (4) of clause 34, after the word "substantial" insert the words "and vital". .

Sir, the reason why I wish that the words "or vital" should be added is, the meaning of the word substantial is not very definite. I referred to the dictionary and found a variety of meanings attached to the word 'substantial'. It can mean having substance, material, stout, strong, bulky, real, solid, conforming to what is essential, involving essential etc.

Dr. Ambedkar: What is the meaning of vital ?

Dr. Deshmukh: That which will affect the candidature in a very direct and a vital manner.

I have also an alternative to suggest which I hope the Hon. Minister will accept. If we omit the words "which is not of a substantial character" that will serve the purpose—that is, if we merely say that the Returning Officer shall not refuse any nomination paper on the ground of any technical defect. By the addition of the words "which is not of a substantial character" we make it still more ambiguous and give scope for interpretation in different ways. Hence I suggest that

*P.D., Vol. 12, Part II, 19th May 1951, pp. 9166-67.

either the words "and vital" be added, or the words "which is not of a substantial character" be omitted. A technical defect is understandable.

I now come to my second amendment. I beg to move:

In sub-clause (5) of clause 34, omit the words "or obstructed by riot or open violence".

Why should we limit the obstruction of the proceedings to only riot and open violence ? I think it is very tantalising, Sir, to refer to only two causes. There might be a variety of causes by which the proceedings may be interrupted. Hence I suggest the deletion of these words. In fact this is in my view an invitation to riot and open violence, if some candidate chooses to do it.

Shri Sidhva: What about a cyclone ?

Dr. Ambedkar: That would be covered under "causes beyond his control".

Dr. Deshmukh: If you omit the words "or obstructed by riot or open violence or" I do not think any harm would be done. I therefore hope that both of my amendments will be accepted.

Mr. Chairman : Amedment moved :

In sub-clause (4) of clause 34, after the word "substantial" insert the words "and vital".

In sub-clause (5) of clause 34, omit the words "or obstructed by riot or open violence or".

Dr. Ambedkar: I do not accept them.

***Mr. Chairman:** I will now put the clause.

Shri Meeran: I have two amendments to this clause—Nos. 343 and 349 in the Consolidated List.

Mr. Chairman: May I know whether the Hon. Minister is prepared to accept any of them ?

Dr. Ambedkar: I am not accepting any amendment.

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*P. D., Vol. 12, Part II, 19th May 1951, pp. 9168-69,

Shri Shiv Charan Lal: I have an amendment—No. 99 of Supplementary List No. 1.

Dr. Ambedkar: I am not accepting it.

Shri Shiv Charan Lal: That is about the appeal—that the appeal should be finally decided about the nomination paper and it should not be a subject of an election petition later on.

Dr. Ambedkar: That matter is still under consideration. We will come back to it.

Mr. Chairman: The question is:

"That clause 34, as amended, stand part of the Bill".

The motion was adopted.

Clause 34, as amended, was added to Bill.

The House then adjourned till Half Past Eight of the Clock on Monday, the 21st May, 1951.

Clause 35

*** Mr. Speaker :** Amendment moved :

In sub-clause (1) of clause 35, for the words, brackets, letter and figures "and delivered to the Returning Officer either by such candidate in person or by his proposer or seconder before three o'clock in the afternoon on the day fixed under clause (c) of section 28"substitute the following:

"and delivered before three o'clock in the afternoon on the day fixed under clause (c) of section 28 to the Returning Officer either by such candidate in person or by his proposer, seconder or election agent who has been authorised in this behalf in writing by such candidate".

Shri Shiv Charan Lal (Uttar Pradesh)**:** I would suggest the addition of the word "duly" before the word "authorised" in the amendment so that the meaning may be more clear.

Dr. Ambedkar: I have no objection.

Mr. Speaker: The Chair will have no objection to add anything. But here it is expressly stated "authorised in this behalf in writing". By the addition of the word "duly" it might create doubts that something else is required.

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*P. D., Vol. 12, Part II, 21st May 1951, pp. 9174-78.

Dr. Ambedkar: I agree. Let us not be over-precise.

Mr. Speaker: So I put the amendment as it is.

The motion was adopted.

Pandit Thakur Das Bhargava: There is one amendment in the name of Mr. Jaspat Roy Kapoor—No. 102 in Supplementary List No. 1.

Mr. Speaker: But is he here ?

Pandit Thakur Das Bhargava: No. But if you permit me I would like to move it.

Mr. Speaker: Is it an agreed amendment?

Dr. Ambedkar: Yes. It is to drop those words "or to be renominated as a candidate for the same election in the same constituency".

Mr. Speaker: I will allow it.

Further Amendment made:

In sub-clause (2) of clause 35, omit all the words occurring after the words "to cancel the notice" to the end.

—[*Pandit Thakur Das Bhargava*]

Mr. Speaker: The question is :

"That clause 35, as amended stand part of the Bill."

The motion was adopted.

Clause 35, as amended, was added to the Bill.

Clause 36 was added to the Bill.

Clause 37.—(*Nomination at other elections*)

Dr. Ambedkar: I have four amendments—Nos. 26, 27, 30 and 31 in Supplementary List No. 3.

The Minister of State for Transport and Railways (Shri Santhanam): In the last portion of clause 37(1) the wording is "qualified to be chosen to fill that seat under the Constitution and this Act". I would like to suggest that the words "under the constitution" may be omitted, they seem to be wholly unnecessary because no parliamentary enactment can override the provisions of the Constitution.

Mr. Speaker: I think it should be left to the examination of the draftsman. The implications are not yet clear to me.

Dr. Ambedkar : This is a matter more or less for the draftsman and the Draftsman thinks that for the sake of clarity, certain words should be introduced. I think his wishes should be respected.

Shri Santhanam: I merely pointed it out.

Mr. Speaker: The Chair will have the authority of amending this, as advised by the Draftsman. We shall proceed to the other amendments.

Amendment made:

In sub-clause (1) of clause 37, for the words "the members" occurring in line 3, substitute the words "the elected members".

—[*Dr. Ambedkar*]

Further Amendment made:

In sub-clause (2) of clause 37, for the words "the members of the Legislative Assembly" occurring in lines 1 and 2, substitute the words "the elected members or the members of the Legislative Assembly".

—[*Dr. Ambedkar*]

Further amendment made:

For the first Proviso to sub-clause (4) of clause 37, substitute the following:

"Provided that any person who is entitled to vote at any such election as is referred to in sub-section *(1)* shall be qualified to subscribe as proposer or seconder as many nomination papers at the election as there are vacancies to be filled but no more."

—[*Dr. Ambedkar*]

Further amendment made:

In part (a) of the second Proviso to sub-clause (4) of clause 37, for the words "by the members of the Legislative Assembly of a State, as references to the list of members of that Assembly" substitute the following:

"by the elected members or by the members of the Legislative Assembly of a State as reference to the list of elected members or to the list of members, as the case may be, of that Assembly".

—[*Dr. Ambedkar*]

Shri Ghule (Madhya Bharat)**:** I have amendment No. 28 standing in my name. I do not want to move but I want to speak on it.

According to the present clause, a candidate should file his nomination within five days of the notification issued by the Provincial Government. I think that the period of 5 days is insufficient for a man who is living in the remotest corner of the Province to receive the gazette in which a notification is issued and send in his nomination to a place where the election would take place. As provided for the elections to the Lower House of parliament in clause 31, the same provision should be made in this clause also *i.e.,* that the nomination would not be required to be filed before the 8th day.

Mr. Speaker: The phraseology is "not earlier than the fifth day".

Shri Ghule : It may be issued on the 5th day and this period is insufficient and in the present state of communications in India, a man may require 3 days at least to get information about the notification and three days at least would be required to send the letter of nomination…… From this point of view I think that the period of 5 days, the minimum period referred to in this clause is insufficient and I suggest 8 days instead.

Dr. Ambedkar : No. I do not think there is such a necessity for this amendment.

Mr. Speaker: The question is:

"that clause 37, as amended, stand part of the Bill."

The motion was adopted.

Clause 37, as amended was added to the Bill.

Clause 38 to 43 were added to the Bill.

Clause 44.—(*Polling Agents*)

Amendment made:

In clause 44, before the word "may" occurring for the Second time in line 4 insert the words "or his election agent".

—[*Pandit Thakur Das Bhargava*]

Pandit Thakur Das Bhargava: With regard to the other amendment No. 380. I would request you kindly to suspend it for the time being. After you dispose of clause 45, this amendment will be relevant.

10-00 A M

Mr. Speaker: It means that we leave this clause alone and dispose it of after disposing of clause 45.

Dr. Ambedkar: This may be disposed of because that deals with the question of time.

Mr. Speaker: Then, I take up clause 45 at this stage.

Shri Iyyunni (Travancore-Cochin)**:** I have an amendment to clause 44.

Mr. Speaker: I will take up clause 45 first and then come to clause 44.

Clause 45.—(*Disqualification for being a polling agent*).

Pandit Manishwar Datt Upadhyay (Uttar Pradesh)**:** I have an amendment No. 381.

Mr Speaker: It is a negative amendment, he may appose the clause when the clause is put.

***Pandit Thakur Das Bhargava:** We have only lists 1 to 6.

Mr. Speaker: Lists 1 to 7 have been consolidated. Supplementary List No. 1 contains the remark "Incorporating List Nos. 7". this is No. 112 on page 18.

Shri Iyyunni: What I submit is that in the case of a polling agent, he has very little work to do ? He has to come there early in the morning and stay there till six or seven o'clock in the evening and watch the proceedings. If there is any case of false personation etc., he has to examine whether the persons actually coming are the persons entitled to vote. That is his work. There is no need to ask him to satisfy all the conditions that are required of a candidate, who, if he succeeds, would go either to the Assembly or the Parliament as the case may be. I submit that it is enough if he is a voter. That would meet the requirements of the case. I therefore submit that my amendment may be accepted by the Hon. Law Minister.

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*P.D., Vol. 12, Part II, 21st May 1951, p. 9179.

Dr. Ambedkar: I do not know. I am not very much interested in these matters. But, in view of the difficulties raised that a large number of polling agents would be reduced and that if we were to subject them to certain disqualifications the number available may be very few and that it may create a lot of difficulty in conducting the elections. I am prepared to accept the amendment of my hon. friend Pandit Munishwar Datt Upadhyay.

Mr. Speaker : That is for dropping the clause altogether ?

Dr. Ambedkar: No. the point is this. I am told that our friends who propose to contest the elections wish to draw upon the college students who are younger than the prescribed age and may not be even voters. I have told them privately that they have already done a great mischief to young college boys by drawing them into the political arena and that they had better not repeat the same thing. They said that they must have this facility. I am prepared to allow that.

Mr. Speaker: It comes to as I was saying, if I mistake not, dropping and negativing clause 45 altogether. I shall put the clause first. The question is :

"That clause 45 stand part of the Bill [w].

The motion was negatived.

*** Clause** 44.—(*Polling agents*)—contd.

Mr. Speaker : Now we come to clause 44.

Pandit Thakur Das Bhargava: I beg to move:

In clause 44, for the words "three days" substitute the words "one day".

Sir, now that we have dropped clause 45, the work of scrutiny does not require 3 days. It is enough if the Returning Officer gets the names one day previous. Therefore I have suggested that instead of the words "three days", the words "one day" may be put in.

Mr. Speaker: Amendment moved :

In clause 44, for the words "three days" substitutes the words "one day".

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* P. D., Vol. 12, Part II, 21st May 1951, pp. 9180-84.

Dr. Ambedkar: Mr. Speaker, *prima facie* it does appear that in view of the abolition of clause 45, one day ought to be sufficient. But frankly speaking. I have not had an opportunity of discussing this matter with the Election Commissioner and obtain his views whether this would or would not create any difficulty. Therefore, I suggest that so far as this point is concerned, the clause may be permitted to remain as it is. I can return to it afterwards by suggesting a suitable amendment if I am convinced that one day really is quite sufficient and nothing more is necessary. I do not want to rule it out for the moment.

Mr. Speaker: That means that this clause is kept over ?

Dr, Ambedkar: Yes.

Mr. Speaker: Then we can dispose of the other amendments.

Shri Ramalingam Chettiar (Madras)**:** Before you leave this amendment, let me suggest that a polling agent may have to be appointed at short notice…….. From the point of view of practical working of the thing, it may be inconvenient to have three days put in here. This point may be considered by the Law Minister.

Dr. Ambedkar: I will, certainly.

Now, I will move my amendment I beg to move :

(i) In clause 44, for the words "one agent and two relief agents and not more to act as his polling agent" substitute the words "such number of agents and relief agents as may be prescribed to act as polling agents of such candidate".

(ii) In clause 44, omit the words "and to such other officer as may be prescribed".

Shri Shiv Charan Lal: I could not hear the second portion.

Sir.

Mr. Speaker: I am reading it again. (Amendment of Dr. Ambedkar as above moved.

So I request the Hon. Law Minister that the words in the clause may be left as they are and not omitted.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

May I draw, the attention of the Law Minister that the words 'such other officer as may be prescribed' should be allowed to remain so that the Returning Officer may prescribe, as usual, the presiding officer to take the application for appointment of the polling agents.

Shri J. R. Kapoor (Uttar Pradesh)**:** May I know what is the second amendment ?

Dr. Ambedkar: My friend will see that the last words of clause 44 are as follows:

> "that notice of the appointment shall be given in the prescribed manner to the Returning Officer and to such other officer as may be prescribed."

The Rules may prescribe that either the notice of the appointment of polling agent may be given to the Returning Officer and to such other officer as may be prescribed. I am trying to delete by my amendment that sentence—"such other officer as may be prescribed" be omitted so that the result will be that the intimation shall be given to the Returning Officer only.

Mr. Chairman : Now it is the discretion of the Government to appoint another officer also. This amendment is taking away the discretion. In practice it is the Presiding Officer to whom this notice is usually given or the polling officer at the time. Therefore I would request the Law Minister to consider if these words are rather enabling.

Dr. Ambedkar : You know the internal history about these things. I am personally content with the words as they are in the Section; I am prepared to withdraw my amendment and leave the words as they are.

Shri J. R. Kapoor: I would suggest that it may be 'Returning Officer or such other Officer'

Dr. Ambedkar: The Returning Officer ought to know everything.

Mr. Chairman: Has the Hon. Minister anything to say to that suggestion?

Dr. Ambedkar: I am not prepared to accept that.

Shri J. R. Kapoor: If 'or' is not substituted, the whole object of retaining the words 'such other officer' goes away. Our intention is that there should be facility to the candidate to submit the name of his polling agents to the presiding officer. I would prefer that these words should be deleted rather than both should remain if my amendment is not to be accepted.

Mr. Chairman: It does not necessarily mean that notice is to be given to two officers.

Mr. Chairman: The question of period is yet in suspense. Till then this cannot be decided.

Shri J. R. Kapoor: The whole clause 44 may be held over.

Dr. Ambedkar : My suggestion is that my first amendment may be considered and the second be held over.

Pandit Munishwar Datt Upadhyay: Why not hold over both because we have not definded whether two agents, one agent and one relief agent, will be appointed for every polling booth.

Dr. Ambedkar: The first has no integral connection with the second amendment.

Mr. Chairman: The question is :

> In clause 44, for the words "one agent and two relief agents and no more to act as his polling agent" substitute the words "such number of agents and relief agents as may be prescribed to act as polling agents of such candidate".

The motion was adopted.

Mr. Chairman: The second amendment is held over.

***Clause 46.**—(*Counting agents*)

Shri Shiv Charan Lal: There is an amendment—No. 382 in Consolidated list No. 1 in the name of Pandit Bhargava. I may be permitted to move it.

*****P.D., Vol. 12, Part II, 21st May 1951, pp. 9184-88.

Mr. Chairman: I would like to know the reaction of the Hon. Minister.

Dr. Ambedkar: It may be permitted.

Mr. Chairman: Yes, the hon. Member may move it.

Amendment made:

In clause 46, before the word "may" occurring in line 2, insert the words "or his election agent".

—[*Shri Shiv Charan Lal*]

The motion was adopted.

Clause 46, as amended was added to the Bill.

Clause 47.— (*Revocation of appointment of polling agent etc.*)

Dr. Ambedkar: I beg to move.

For clause 47, substitute the following clause:

"47. *Revocation of the appointment or death of a polling agent or counting agent.*—(1) Any revocation of the appointment of a polling agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with the Returning Officer and in the event of such revocation or of the death of a polling agent before the close of the poll, the candidate or his election agent may appoint in the prescribed manner another polling agent at any time before the poll is closed and shall forthwith give notice of such appointment in the prescribed manner to the Returning Officer.

(2) Any revocation of the appointment of a counting agent shall be signed by the candidate and shall operate from the date on which it is lodged with the Returning Officer and in the event of such revocation or of the death of a counting agent before the commencement of the counting of votes, the candidate may appoint in the prescribed manner another counting agent at any time before the counting of vote is commenced and shall forthwith give notice of such appointment in the prescribed manner to the Returning Officer."

Shri J. R. Kapoor: It is very difficult to follow the amendment without a copy before us.

Shri Santhanam: As consequential to the previous amendment after the word "candidate" wherever it occurs the words "or election agent" should be inserted.

Dr. Ambedkar: I have no objection.

Mr. Chairman: I shall now read the amendment in the amended form and it will be clear to hon. Members. Amendment (of Dr. Ambedkar as above) moved.

Shri Shiv Charan Lal: As I have pointed out previously with regard to clause 44 if the words "or such other officer as may be prescribed" are put after the words "Returning Officer" in paragraph 1, it will make the position clearer and easier; because at the time when the polling is going on it is very difficult to search out the returning officer and get the name changed.

Shri Santhanam : The words "Returning Officer" are not there; the only words are "in the prescribed manner".

Mr. Chairman: The returning officer may not be found at every polling station. If this is inserted, that notice may be given to any other officer, it would be better.

Shri Santhanam: Does it refer to the counting agent or the polling agent ? So far as the counting agent is concerned it has to be only to the returning officer.

Mr. Chairman: The wording is "may appoint……another polling agent at any time before the poll is closed and shall forthwith give notice of such appointment in the prescribed manner to the Returning Officer." This is not practicable. Either the mere giving on notice is sufficient or the notice may be given subsequently to the returning officer or such other officer or polling officer.

Shri Santhanam: The words "in the prescribed manner will do". The words "Returning Officer" may be dropped.

Dr. Ambedkar : All these things have come upon me rather suddenly. I have not had time to go through them. This amendment was handed to me in the morning. I must safeguard my own position. My amendment may be accepted as it is subject to my right of reopening the question again in the House, if I find that the amendment creates any difficulty; or let the thing stand over. In that event the whole Bill must stand over now.

Mr. Chairman: Let it be held over, so that hon. Members may have the time to study the amendments.

Clause 48 was added to the Bill.

Dr. Ambedkar: I would request you to take up those clauses to which there are no amendments.

Clause 49.—(*Attendance of candidate at Polling Stations*)

Mr. Chairman: The amendment to clause 49 (No. 383) is the same which the hon. Member has accepted.

Shri Shiv Charan Lal: If he has no objection I will move it Sir.

Dr. Ambedkar: I have no objection.

Amendment made:

In sub-clause (2) of clause 49, after the words "A candidate" insert the words "or his election agent".

—[*Shri Shiv Charan Lal*]

Mr. Chairman: The question is :

"That clause 49, as amended, stand part of the Bill."

The motion was adopted.

Clause 49, as amended, was added to the Bill.

Clause 50 was added to the Bill.

New Clause—50A

Shri S. N. Das (Bihar)**:** I have an amendment standing in my name suggesting a new clause 50a, regarding the candidate's right to send election address post-free.

Dr. Ambedkar: If I may intervene at this stage to save time. Sir, you will remember that last time this matter was discussed as to whether provision should not be made for permitting the candidate to send his election address post-free and I said that I would refer the matter to the Government and see whether such a thing could not be done. I thought the House at that time accepted my assurance without any specific amendment to that effect.

Shri Sidhva: This should be held over.

Dr. Ambedkar: No. it is not necessary.

Mr. Chairman: Am I to understand that the hon. Mover does not want to move his amendment in view of the assurance given that the Hon. Minister will refer the matter to the Government ?

Shri S. N. Das: In view of the assurance given by the Law Minister, I want to know whether I might be permitted to move my amendment.

Mr. Chairman: There is no question of being allowed. He is at perfect liberty to move it. I only suggested to him whether, when the Hon. Minister has given an assurance, it is desirable to move it.

Shri S. N. Das: It may be held over.

Mr. Chairman: There is no question of being held over. The reply will not come from the Government within such a short time. Either he should move it or not move it.

Shri S. N. Das: In view of the assurance given I do not want to move it.

***Mr. Chairman:** Then there is another amendment No. 385 in the printed list, standing in the name of Mr. Das suggesting new clause 50A.

Shri S. N. Das : (*Hindi translation of Hindi Speech*) I want to say something on it. I submitted the suggestions because of the fact that in the election campaign propaganda wields great influence.....My suggestion is that everybody should be given an equal opportunity so that he may go to the voters to explain to them the objectives for which he stands. Therefore, many candidates would be saved of expenses if railway facility was made available to them. That is the purpose of the suggestion I have put forth for the consideration of the House. If the House deems it proper, it may accept it, if not, it may reject it.

Mr. Chairman: This amendment has not been moved and it has not been placed before the House. I would rather like that the reaction of the Hon. Minister may be known to the House.

*P. D., Vol. 12, Part II, 21st May 1951, pp. 9189-90.

Dr. Ambedkar: I cannot agree to Government undertaking any such obligation at all.

Mr. Chairman : Does the hon. Member want the amendment to be put to the House ?

Shri S. N. Das: No Sir.

Clause 51 (Death of cordinate)

***Mr. Chairman:** Amendment (of Shri S. N. Das) moved:

For clause 51, substitute the following:—

"51. *Death of candidate before poll.*— Whenever any candidate dies after being duly nominated and before the closing of the polls, all the election proceedings shall stand cancelled and all proceedings with reference to the election shall be commenced a new in all respect as if for a new election:

Provided that the nomination of the deceased candidate was valid in the opinion of the Returning Officer:

Provided further that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of the cancellation of the election."

Dr. Ambedkar: I do not accept the amendment, but I would like to say that in view of the fact that the House has carried an amendment to sub-clause (2) of clause 35 with regard to withdrawal, there will have to be some small amendment made later on and I reserve the liberty to bring the matter up at a later stage

Shri J. R. Kapoor: I take it that the proposal of the Hon. Minister is to hold over this clause.

Dr. Ambedkar: I do not want to hold it over. The only point is that it will be necessary to add one more proviso. The point is this : that by amending sub-clause (2) of clause 35, it is now open for a candidate who had withdrawn to seek nomination if the contingency contemplated in clause 51 arises. Consequently a positive provision will have to be made in clause 51. That can easily be done by adding a proviso.

*P.D., Vol. 12, Part II, 21st May 1951, pp. 9194-97.

Mr. Chairman: As a matter of fact, in consequence of amendment No. 102 of Supplementary List No. 1 standing in the name of Shri Jaspat Roy Kapoor having been accepted, a consequential amendment is necessary and it is only for the purpose of having that consequential amendment that an opportunity is being sought to add that amendment afterwards.

Shri J. R. Kapoor: I entirely agree with the Hon. the Law Minister that another proviso will have to be added, in view of the amendment which has already been accepted (Amendment No. 102). but apart from that, Sir, I think that the suggestion contained in the amendment just moved by my hon. friend Shri S. N. Das deserves serious consideration..... There are two points contained in the amendment of Shri S. N. Das. His first contention is that if a particular candidate dies after scrutiny, but before the commencement of the poll, then the electorate should be given an opportunity for making another nomination in place of the candidate who is dead. This is an accepted principle.

The next question that arises is that why should this principle be confined to cases of candidates who die only after scrutiny ? A candidate may die between the date of nomination and the date of scrutiny.

Dr. Ambedkar: That is not the position.

***Mr. Chairman :** What is 'due nomination'? Is it after or before security ?

Dr. Ambedkar: In view of the fact that this clause will come back again to the House for the purpose of considering the proviso to which I have already referred, the whole thing might be held over.

Mr. Chairman: Very well. Clause 51 is held over.

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*P.D., Vol. 12, Part II, 21st May 1951, p. 9197.

Clause 52.—(*Procedure in elections*).

Amendment made;

In sub-clause (3) of clause 52, for the Words ... the members of the State Legislative Assembly or electoral college concerned" substitute the following:

"the elected members or the members of the State Legislative Assembly or the mememembers of the electoral college concerned".

—[*Dr. Ambedkar*]

Further amendment made.

In the Proviso to sub-clause (3) of clause 52, for the words "the members of the State Legislative Assembly or of the electoral college" occuring in lines 1 and 2, substitute the following:

"the elected members or the members of the State Legislative Assembly or the mememembers of the electoral college concerned".

—[Dr. Ambedkar]

Mr. Chairman: The question is :

"That clause 52, as amended stand part of the Bill." The Motion was adopted.

Clause 52, as amended was added to the Bill.

Clause 53 was added to the Bill.

Clause 54 was added to the Bill.

*** Clause 56.**—(*Adjournment of poll*)

Pandit Munishwar Datt Upadhyay: I have an amendment. No. 389 in the Consolidated List to include the words "on other polls" after the words "such election" in sub-clause (2). I think these three words would be necessary because otherwise you do not define to what election it refers.

Dr. Ambedkar: Election means election under the Act.

Pandit Munishwar Datt Upadhyay: You mean election in respect of the same constituency. Then you have got to say "on other polls". The sub-clause read :

"and fix the polling station or place at which, and the hours during which, the poll will be taken, and shall not count the votes cast at such election until such adjourned poll shall have been completed".

"..... That such election on other polls" makes the thing clear. Otherwise it is ambiguous.

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*P. D., Vol. 12, Part II, 21st May 1951, pp. 9198-99.

Shri Santhanam: "Such election" covers it.

Dr. Ambedkar: I do not think it is necessary.

Mr. Chairman: The question is :

"That clause 56 stand part of the Bill."

The motion was adopted.

Clause 56 was added to the Bill.

Clause 57.—(*Fresh poll*)

Shri Shiv Charan Lal: May I be permitted to move amendment No. 390 standing in your name, Sir?

Mr. Chairman: It would be better to know the reaction of the Hon. Minister.

Shri Shiv Charan Lal: It seeks to substitute the words "before the votes are counted" for the words "at any election" in sub-clause (1).

Shri Santhanam: It may be at any stage.

Dr. Ambedkar: I do not think it is necessary.

Pandit Munishwar Datt Upadhyay: I have an amendment (301) that in sub-clause (1) after the words "presiding officer" the words "or any other person on their behalf" be inserted. It may be that the boxes are in transit, they might be placed somewhere else, they might be in the custody of someone else. And these things may not be covered, by the present working. I consider that the introduction of these words appears to be necessary.

Shri T. T. Krishnamachari (Madras)**:** The other words which follow are : "or is or are in any tampered with..."That covers that condition. It is unnecessary.

Dr. Ambedkar: I do not think it is necessary.

Mr. Chairman: The question is :

"That clause 57 stand part of the Bill."

The motion was adopted.

Clause 57 was added to the Bill.

Clause 58 was added to the Bill.

***Shri Karunakara Menon:** I emphasize the words : "to enable a person to vote in a particular manner".

Dr. Ambedkar: The clause as it is quite all right.

Shri Shiv Charan Lal: If the Hon. Law Minister does not think that these words are necessary, then I do not press it.

As for amendment No. 117, I find that clause 59(d) reads as follows : "the wife of any such person as is referred to in clauses (a), (b) and (c) to whom the provisions of sub-section (6) of the said section 20 apply" I do not know why we are giving this right to the wife.

Dr. Ambedkar: Because she may be with him.

Mr. Chairman : Supposing she is not with him, she is not given any right to vote in any other manner ?

****Shri J. R. Kapoor:** I beg to move:

After part (e) of clause 59, add the following new part as part (f):

"(f) any person subjected to preventive detention under any law for the time being in force."

This is one amendment. Another amendment, which I would like to move with your permission. Sir, is No. 396 in the printed list, which has the privilege of standing in your name. I beg to move:

After part (e) of clause 59, add the following new parts:

"(f) the candidates, their election agents and polling agents ;

(g) the President, the Governors and the Rajpramukh of the States."

Dr. Ambedkar: Why does he want specifically reference to them ? They are voters.

Shri J. R. Kapoor: So far as amendment No. 396 is concerned, there are two parts which are intended to be inserted, parts (f) and (g). You may take them separately, because it is just possible that while the insertion of part (f) may be agreed to, perhaps part (g) may not be agreed to for reasons best known to the Hon. Law Minister.

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*P.D., Vol. 12, Part II, 21st May 1951, p. 9202.

***Ibid*, p. 9204.

***Mr. Chairman :** Amendments moved :

(i) After part (e) of clause 59, add the following new part as part (f):

"(f) any person subjected to preventive detention under any law for the time being in force."

(ii) After part (e) of clause 59, add the following new parts:

"(f) the candidates, their election agent and polling agents ;

(g) the President, the Governors and the Rajpramukh of the States."

Shri Sonavane (Bombay)**:** I rise to support part (f) of the amendment standing in the name of Pandit Thakur Das Bhargava. I also support the addition of the new part (f). It is necessary to allow a candidate to vote through the post because he may be in a place which is not a constituency in which he is registered as the candidate. It may not be possible for him to go to that particular constituency and so he should be allowed to vote through the post. Similar circumstances may arise in the case of the election agents and polling agents also and so they also must be allowed this facility. When they have to work as election or polling agents, they may have to go to different places and they may not be able to be present in the constituency in which their names occur in the electoral rolls. So it is but proper that this facility should be extended to them also.

Dr. Ambedkar : Sir, Mr. Kapoor has placed before us three propositions, namely, that the facilities for voting by post may be extending to persons under detention, and to candidates, their election agents and polling agents and thirdly, to the President, the Governors and the Rajpramukhs of the States.

I should like to say at the very outset that postal ballot is a very dangerous thing—one of the most dangerous thing that I have come across. I have noticed candidates appointing persons to go to various individuals who become entitled to voting by post, collect their ballot papers, get their signatures, and just post it themselves and thus a vast amount of illogical pressure—something like requisitioning—is brought about. I therefore think that this system ought to be confined to the shortest extent possible.

*P.D., Vol. 12, Part II, 21st May 1951, pp. 9207-09.

Shri J. R. Kapoor: Then do not extend it to the wives of voters who live far away.

Dr. Ambedkar: They are only (a), (b) or (c).

As regards the candidates, election agents and polling agents, I do not see why the rule of postal ballot should be applied to them. I can quite understand that the candidate may not be present in the constituency in which his name is enrolled, because we have given the facility that a candidate can stand anywhere he likes. It is also possible that the various persons whom he engages such as the election agents, polling agents and so on, may not be able to work in the constituencies in which their names are enrolled. In such cases it is perhaps desirable to make it possible for them to vote in a constituency where they are working although that is not their constituency by registration. But that is a matter which must be considered separately and not under the postal ballot section.

With regard to Rajpramukhs, Governors and the President, I do not see what valid ground there is for permitting them to cast their vote by postal ballot, except the fact that they are certain dignitaries of the State. But I do not think that the law in the matter of election should recognise any such distinction at all.

An Hon. Member : They may be living far away from their constituency.

Dr. Ambedkar: I do not think so. They can arrange their tours in such a way as to be in their headquarters at the proper time. That is not a very difficult thing.

Shri Sidhva: They have all the facilities for that.

Dr. Ambedkar: With regard to persons under detention, I think the general rule of law is this. First of all, whoever is under detention is not in a position to exercise the rights that are given to him. That is the rule under the English Law. The English Law makes no provision for what might be called "convicts" to vote, by reason of the fact that they have placed themselves, so to say, beyond the pale of the electoral law.

Shri T. T. Krishnamachari: But that disqualification would not operate in this case.

Dr. Ambedkar: I do not know. Our disqualification would arise if the period is 2 years or if the detention is an indefinite sort of thing. So I would not commit myself to the proposition suggested now. I feel that we are really breaking a very salutary principle that a man if he wants to exercise his legal rights of voting, he must be within the pale of the law and not outside it. Therefore, on that ground I am not prepared to accept the suggestion with regard to persons under preventive detention.

As I said I am prepared to consider the question as to whether a candidate, his polling agents and other agents who are working for him and who are not registered as the voters in that particular constituency in which they are present, should be permitted to vote in that very constituency notwithstanding the fact that they are not registered there. But that is a matter which cannot come under this clause.

Mr. Chairman: The present rule is then that they are allowed to vote wherever they happen to be ?

Dr. Ambedkar: If necessary, that will be provided for separately.

Shri T. T. Krishnamachari: Sir, I would like the House to be permitted to discuss this matter more fully, in regard to the persons under preventive detention. At the time the amendment was moved, we thought that as a matter of course, it would be accepted. Several Members hold that the persons detained under the Preventive Detention Act under the Constitution are detained for something for which they are not responsible and Government fight shy of taking these persons to a court and get them convicted. And so long as they are not convicted, they must be held to be innocent of all crimes.....It is a matter of principle with many of us and in view of the importance of this question we want a separate vote taken so that we can voice our opinion on this matter.

Mr. Chairman: There are two questions—not only the question whether these persons should be allowed to vote.

***Dr. Ambedkar:** I think I could set matters right ?—at any rate put them in a proper perspective so that the House may come to its own conclusion.

I first of all wish to dispose of the point with regard to sub-clause (d) of clause 59, relating to wives. I think in order to understand what exactly sub-clause (d) seeks to do, it is necessary to go back to section 20 of the Representation of People Act. Section 20 of that Act deals with the question of the meaning of the words "ordinarily resident". What is the meaning of the words "ordinarily resident"? Now, the words "ordinarily resident" are quite clear with regard to persons who are residing in India-. But with regard to persons, for instance, who are in the armed forces of the Union and who under the Army Act and Regulations can be transferred from one place to another, they cannot be presumed to have any particular fixed place of residence. They are in one place for a few months, they are then transferred to some other place. They are there for a few months and again they are transferred. They are so to say a mobile force with no particular attachment to any particular area. In that case, the question arises as to what is to be their constituency.

Similarly, there is another class of people who are employed in the service of the Government of India outside India. In regard to these persons the provision that is made in section20 of the Representation of People Act is this: that option would be given to them to make a statement as to which constituency they regard to be their constituency and whatever choice they make is accepted by the Registration Officer for the purpose of recording their names in the electoral roll. That is the position.

Obiviously along with that the question of wives of such persons also arises, because they are also sometimes living with their husbands who are either in are armed forces of the country or in the services outside India. Just as the question arises with regard to the males who are employed, the question also arises with regard to their wives. The answer given in section 20 is that the constituency of their husbands

* P. D., Vol. 12, Part II, 21st May 1951, pp. 9220-25.

shall also be deemed to be the constituency of the wives. Consequently it is necessary to make a provision for voting by postal ballot with regard to the wives also.

Shri R. K. Chaudhuri: If the wife is here in India ?

Dr. Ambedkar: If the wife is here, that will be the constituency, because she will be entered in the electoral roll independently of the provisions contained in section 20 of the Act.

Suppose she is outside and her husband selects a particular constituency. If the husband has a right to vote by ballot, obviously the wife must be given the same right and I do not see any reason why my hon. friend Mr. Chaudhuri got so excited over such a simple proposition.

Shri R. K. Chaudhari: Supposing the wife is employed ? Will the husband get the same privilege?

Dr. Ambedkar: That is a contingency that may arise.

Now, I am coming to the question of detenus. Personally, I do not mind saying that I have a great deal of sympathy with the proposition that no person in India who has got the right to vote should not be free to vote. But I would like the House to consider what actually we could do in order to ensure that the detenus will be able to vote. There are three possible ways of doing it. One is this that we have to set up a polling station in each jail so that all persons who are placed in that particular jail may have the right to vote and to constitute the Jailor either the Returning Officer or the Presiding Officer or the Polling Officer. That is one way of doing it. The second way is that we should allow the detenus to be taken to the general polling booth, undoubtedly accompanied by police and probably handcuffed and taken out of the jail walking two or three miles. And the third way would be by the postal ballot. Obviously it would be very difficult in my judgment to constitute a polling station in each jail, because there may be in some jail quite a large number of detenus, in some other jail there may be one or two, in some there may be none.

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): It will be possible.

Dr. Ambedkar: I think the Home Minister might be in a better position to enlighten the House as to how it could be done.

Shri Satya Narayan Sinha: I have consulted the Home Minister.

Dr. Ambedkar: With regard to the second method I do. not think that any detenus would like the alternative of being taken under police escort, handcuffed and paraded for a distance of two or three miles.

Mr. Chairman: Why two or three miles ? It may be fifty miles or more because the constituency may be very far from the jail.

Dr. Ambedkar: That is another difficulty. The only other method that is therefore left for consideration is the postal ballot. I want to point out what is likely to happen under the postal voting system. It is quite obvious that the ballot paper will have to be distributed a long time before the date of polling takes place. For that purpose the Election Commissioner will have to write a circular to the various Jail Superintendents to find out how many detenus there are under their custody and in accordance with the information so obtained he will, on the estimate made on that day—this is important—distribute the ballot papers. The circular must certainly go to the Jail Superintendents at least some time before, may be a month or three weeks before the actual polling takes place, and then accordingly the ballot papers may be sent to the Jail Superintendents to be distributed to the various detenus under their custody. The question that the House has to consider is this : what is to happen to the detenus who are brought into jail custody between the date on which this enquiry is made and the date on which the polling takes place ? Obviously there could be no ballot papers in respect of them because the ballot papers would have been sent to the jailor on the basis of the estimate that he has submitted on that particular day. It may be that after that date is over fifty more detenus are sent to the jail. They are there. Therefore, by adopting this system of postal ballot you are not giving effect to a general desire that every person under

detention should get the right to vote. (*Interruption*). Most of them will get, but some will not. If you are keen that every person who is under detention shall get an opportunity to vote...

Shri J. R. Kapoor: So far as is physically possible.

Dr. Ambedkar: .....that purpose is not going to be carried out. There are some people who are bound to be omitted. And it is perfectly possible, so far as I can imagine, that the number of people who may be sent under preventive detention after or just nearer the time when the polling takes place may be much larger than before. I do not want to anticipate anything, but my fear is that this sort of thing may happen. Therefore you are really not making a provision which is, shall I say, either fool-proof or knave-proof. (*Interruption*). This matter really has ben raised without reference to the clause. This matter can arise only under clause 61 because there is a specific provision in sub-clause (5) of it. It cannot come under clause 59. Sub-clause (5) of clause 61 says that "No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police, or is subjected to preventive detention...". Therefore, if any amendment is to be made, it must be made to sub-clause (5) of clause 61. I think this matter is quite outside the scope of clause 59.

Shri Sidhva: If we pass it, it will go under 61.

Dr. Ambedkar : How can we pass it now ? I have told you what difficulty is likely to arise, If notwithstanding it you want it to be done, it is a different matter. It is not a matter of conscience with anybody. I do not know what arrangements Government can make.

Shri Bharati (Madras)**:** One difficulty is that some of them may be illiterates.

An Hon. Member: They are too literate !

Dr. Ambedkar: I have only pointed out the administrative difficultives. If supposing for instance there is a very large

concentration of detenus in a particular jail and a candidate comes to know that a good many of them are illiterate and not able to sign, it is perfectly possible that he may approach the jailor and say "Get these things signed for me ?

Shri Sidhva: There are so many officials. There is a Superintendent, jailor and so many officials are there. Should we assume that all of them are going to be corrupt ?

Dr. Ambedkar: If the evil exists on a small scale, should we tolerate it on a large scale ? (*Interruption*).

Several Hon. Members: Put it to vote.

Mr. Chairman: Order, order.

Shri T. N. Singh (Uttar Pradesh)**:** I would like the Law Minister to explain as to what will be the position of a husband whose wife is employed outside, in government service and whether he will exercise the right of vote or not ?

Dr. Ambedkar: So far as the law is —my women friends in the House will forgive me—the husband does not carry the status of the wife; it is the wife that carries the status of the husband.

I cannot consent to this kind of irregularity. I said there is a regular clause for it, namely 61(5). When you want to move an amendment, move an amendment to that. But there is no text of amendment before us.

Mr. Chairman: There is an amendment which has been moved. This amendment has not been ruled out of order. At the same time the acceptance of this amendment involves two things, not only the right of voting but voting in a particular manner, that is by postal ballot. Therefore, even if this amendment is not accepted by the House it would not preclude its consideration under clause 61. So I would rather prefer. If the House agrees, that it may be taken under clause 61.

Shri J. R. Kapoor: May, I submit that I have tabled an amendment to the same effect under clause 61 also? But if I have tabled an amendment there also it is because I consider it necessary that the amendment here also should be made.

The other amendment is a consequential one. Because clause 59 relates to the manner of voting and clause 61 relates to the right to vote…….. When we come to clause 61 the following words occurring in sub-clause (5) "or is subjected to preventive detention under any law for the time being in force" should be deleted there.

Mr. Chairman: Order, order. Unless and until we succeed in getting it established that the detenu has a right to vote we cannot do anything. The manner how he would vote would naturally come after that. In the present arrangement, clause 59 precedes clause 61. So it would be better first of all if the House establishes that a detenu has got a right to vote. Then the question will arise how he should vote. If the House is of the opinion that the detenu has the right to vote, then the Government shall have to make some arrangements as to how he should exercise the vote.

Shri J. R. Kapoor: But not without this law authorising the Government to make any such arrangement.

Mr. Chairman: Order, Order. Let us hear the Hon. Minister.

Dr. Ambedkar: If the House adopted it, what I would do would be to delete the last sentence, namely "or is subjected to preventive detention under any law for the time being in force" and then say "that for purposes of enabling persons under preventive detention to cast their votes, the Government may make provision either by establishing polling stations or by ballot paper" or put something like that.

Shri J. R. Kapoor: The other course will be to take clause 61 and then clause 59.

Shri T. T. Krishnamachari: It does not preclude this House from deciding on the amendment proposed by Mr. Kapoor because the acceptance of the amendment will naturally involve a deletion in clause 61…… The procedure is quite right. I think you can put Mr. Kapoor's amendment to vote...

An hon. Member: What about the illiterate voters ?

Dr. Ambedkar: I would prefer this matter to be considered under 61 (5) which is more direct rather than to do it in this indirect fashion.

Mr. Chairman: I think that so far as the right to vote is concerned, first of all it should be established by the House. As Mr. T. T. Krishnamachari pointed out there is no rule precluding us from considering clause 59 because the acceptance under clause 59 also establishes two things, namely, the right to vote as well as the right to vote in a particular manner. All the same it is an accepted principle that before we take to the latter course, it would be better to get the right to vote established. Then the Government shall have to prescribe the manner in which that right is to be exercised. Then when the amendment comes in, it will be right for us to say whether the particular mode which the Government proposes for obtaining the vote of the detenu is proper or not. We shall have occasion then to consider whether establishing polling stations or the voting by postal ballot would be a preferable method. Then, we shall have occasion to agree to that method. I think Mr. Jaspat Roy Kapoor has already agreed that this may be taken up when we consider clause 61.

Shri T. T. Krishnamachari: My suggestion is that the House should decide this matter. If you think that the House had better decide clause 61 first leaving clause 59 without being decided on now. I am quite agreeable to that. But we do not want this House to leave it to the tender mercies of the mover of the Bill either to move a similar amendment or not. We would like clause 61 to be disposed of first before clause 59.

Mr. Chairman: Order, order. It is not right to suggest like that, because the matter is in the hands of the Chair. The Chair has to find which thing has to be moved first and which thing next. The Mover has expressed his sympathy with the amendment. Why should it be said that the matter be left to his tender mercies ?

Shri J. R. Kapoor: I would submit that there does not seem to be any difference of opinion with regard to the acceptance of the principle of my amendment. So, I would say nothing on that. The only question is how the substance of

it should be incorporated and where…….. The right to vote already exists under the existing statutes. Clause 61 is a disqualifying clause. It does not confer any right of voting. It takes away the right of voting from certain persons who are enumerated in clause 61. But, here, we must specifically provide for that because here we are laying down the procedure by which various classes of persons are enabled to vote and this is the proper place.

Mr. Chairman: Order, order. The point is absolutely clear. There is no dispute about that. The right of voting and the method in which the vote will be recorded, are the two matters before the House. There is provision in clause 61 which takes away the right of a detenu. We have first to see whether we succeed in seeing that that right is not taken away. Then the question will arise as to the method in which that vote is to be recorded. Then we can revert to clause 59, to see whether we can adopt this method of recording their vote or the other methods suggested by the Hon. Law Minister.

With the concurrence of the hon. mover of the amendment. I am not putting this amendment to the House now. We can come back to clause 59 again if necessary.

Several Hon. Members: All right.

Mr. Chairman: I shall put the other amendment to the House. No. 396.

Shri Shiv Charan Lal: About that. I want clarification on one point.

Mr. Chairman: All the points have been clarified.

Shri Shiv Charan Lal: The Hon. Minister while replying to amendment No. 396 said that this is not the place for bringing in the candidates, their election agents and polling agents. My submission is that the heading of this clause is "Special procedure for voting by certain classes of persons" and I think this is the proper place to bring them in.

Mr. Chairman : The hon. Member will realise that herein the special procedure is given for postal ballot. The Hon. Minister has already explained that this is not the proper

method. It is for the Hon. Minister to make provision somewhere to see that these persons get the right to vote.

Dr. Ambedkar : If my friend wants an explanation, I would like to give this explanation to him. This clause 59 makes special reference to provision for voting by postal ballot by certain persons. It does not take away the right of the Government or the Election Commissioner to make provisions by rules for the method of voting of some other classes of people. If he wants specifically any rule, he can do so when we come to clause 167 where power to make rules is given.

Mr Chairman: I shall put amendment No. 396 to the House.

Shri J. R. Kapoor: I would request you, Sir, to put it in parts seperately (f) and (g).

Mr. Chairman: The question is:

After part (e) of clause 59, add the following new part:

"(f) the candidates, their election agents and polling agents ;".

Shri J. R. Kapoor: The Ayes have it. Sir.

Mr. Chairman: I will again put it to vote.

Shri J. R. Kapoor: Sir, most of the Members have not understood what is being put to vote.

Dr. Ambedkar: This matter will be provided for separately, and I do not understand why my friend should insist on introducing this clause for the purpose of postal ballot.

Shri J. R. Kapoor: Then I take it that it will be provided for somewhere else ?

Mr. Chairman: Then I think the hon. Member wants to withdraw his amendment ?

Shri J. R. Kapoor: Yes, on that assurance. I beg for leave to withdraw my amendments.

The amendments were by leave withdrawn.

Mr. Chairman: The amendment is withdrawn subject to our right to revert to clause 59, if the right is established in clause 61. We shall consider this amendment subsequently. The amendment is held over.

Shri T. T. Krishnamachari: There is no point in proceeding with it now. It may be held over.

Clause 60.—(*Prevention of personation*).

Shri Shiv Charan Lal: I want to move my amendment No. 120 in the Supplementary List 1, asking for the deletion of the clause.

Mr. Chairman: That is a negative amendment.

Shri Shiv Charan Lal: Then I shall only speak on the clause.

This clause 60 requires the finger of the elector to be marked by some ink when the ballot paper is given to him……. There has been no such provision in our country till now and I do not think there is the slightest need for it even now. So we need not have this clause 60.

Shri T. T. Krishnamachari: The position seems to be that the hon. Member has not understood the implication of clause 60. We are now experimenting with adult suffrage and we are not having registration of voters followed by giving them identification cards. I believe certain State Governments contemplated taking photographs of voters and giving them identification cards, but the cost involved was tremendous and so we have to make some other arrangements. False personation is an inevitable factor associated with votings, especially when such huge numbers are involved and so we have the method suggested in clause 60. There is nothing wrong shout it, when the rich man and the poor man have all to get their thumbs marked. There is nothing *infra dig* about it. Because of our poverty as a country we cannot give registration or identity cards to everybody and you cannot expect every voter to sign in a particular place either for purposes of identification as many would be illiterate. So we have this device—a temporary expedient as I hope—during the first two or three elections. There is no use importing sentiment into this matter. It is just a wholesome provision against impersonation which is a common feature in all elections where such large numbers are involved. Dishonesty has to be provided against and if for that purpose we have

to put ourselves to some inconvenience, I do not think there is anything seriously wrong. The arguments that have been quoted in support of the amendment to delete this clause are made wholly without considering all aspects of the situation. Therefore I support the clause as it stands.

Mr Chairman: The question is:

"That clause 60 stand part of the Bill".

The motion was adopted.

Clause 60 was added to the Bill.

Clause 61—(*Right to vote*)

Amendment made:

In sub-clause (5) of clause 61, omit the words "or is subjected to preventive detention under any law for the time being in force".

—[*Shri J. R. Kapoor*]

Dr. Ambedkar: The House should also take into consideration what I stated that although postal ballot appears to be the easiest method to adopt, as I said, unless elections are to be indefinitely postponed, we will have to make some provision for administrative difficulties and not being able to give ballot paper to everyone. That has to be borne in mind. What I thought was,—as I am not in a position to at once suggest an amendment which would give the persons under preventive detention the right to vote and also to meet the administrative difficulties,—I wanted to put it to the House whether it would not be desirable to deal with this matter under clause 167 which gives power to make rule.

Mr. Chairman: Two courses are open—either it may be provided in the rules or since the amendment of Mr. Kapoor is before the House, any amendment to that may be moved.

Dr. Ambedkar: What I wanted to say was this that some such words 'as far as practicable' would be necessary. The words 'as far as practicable' do not occur in any of the clauses of 59.

Shri T. T. Krishnamachari: The clause itself reads like this:

"Provision may be made by rules made under this Act".

There is nothing mandatory about it.

Dr. Ambedkar: My point is, under this rule it would be obligatory to provide a ballot paper for every one of the voters who is covered by this while so far as detained persons are concerned, on account of the difficulties that I have mentioned it may not be possible to provide a ballot paper for everyone. Otherwise the detenu may file a suit.

Mr. Chairman: Supposing the words "so far as practicable" are put in here along with the amendment.

Dr. Ambedkar : I do not think the words "so far as practicable" should be made applicable to any of the other categories specified, because it is possible to provide a ballot paper for every one who comes under these categories. Only in regard to this will only cause bitterness among people. And if it is done it would only produce obstacles in the way of a popular Scheduled Caste candidate in contesting elections for the general seats. Not only this much but his right to contest elections for the general seats and win them would also be nullified. Keeping this in view I think, Shri Sonavane should realize that he should not move such an amendment which may result in accelerating communal differences and bitterness and which might prove dangerous for the Scheduled Tribes or Scheduled Castes themselves. My impression is that even if he does not get sufficient votes after contesting for the general seat, he would at least get the seat reserved for the Scheduled Tribes. And in case he gets sufficient number of votes while contesting for the general seat then he would be elected on both the seats, the general as well as the reserved one. We should therefore declare it a separate seat, because this procedure cannot be followed with respect to a joint seat. And if the number of seats would be more in a plural constituency the voters only will have a right to *give* vote in the manner they like; of course the Harijans and the non-Harijans should have an equal footing for contesting elections for the general seat. In case the voters think that the Harijan candidate is a proper one and is capable, he will get votes of non-Harijans too and will be elected from that constituency. But in case he does not poll more votes then also he would

be entitled to get the second seat that has been reserved for the Scheduled Castes and Scheduled Tribes.

1-00 P.M.

Dr. Ambedkar: I am not prepared to accept this amendment.

Shri Sonavane: I beg for leave to withdraw my amendment.

The amendment was, by leave, withdrawn.

Shri J. R. Kapoor: I beg to move:

For sub-clause (2) of clause 62, substitute the following:

"(2) If an elector gives more than one vote to any one candidate in contravention of the provisions of sub-section (i) both the votes will be rejected."

Dr. Ambedkar: This matter was considered at great length in the Select Committee.

Shri J. R. Kapoor: Many a thing was very seriously considered by the Select Committee. But you find what that careful consideration has come to when the report is scrutinised here.

I would therefore, like to argue it out.

Mr. Chairman: The hon. Member will do it tomorrow.

The House then adjourned till Half Past Eight of the Clock on Tuesday, the 22nd May, 1951.

Clause 62

***Mr. Speaker:** Amendments moved:

(i) In sub-clause (1) of clause 62, for the words "but no elector shall give more than one vote to any one candidate", substitute the following :

"and may give all those votes to one candidate or distribute between such candidates and in such a manner as he thinks fit".

(ii) Omit sub-clause (2) of clause 62.

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*P. D., Vol. 12, Part II, 23rd May 1951, pp. 9248-49.

Shri R. Velayudhan (Travancore-Cochin)**:** May I speak on a few points ?

Mr. Speaker: There was an informal conference yesterday and the hon. Member I believe was present. I agree that he has the right to speak, but I do not know what right morally he has to take up the time of the House after having taken up three hours of the House yesterday in an informal conference. I do not want to come in the way of his right to speak as long as he likes.....

Shri R. Velayudhan: But the other hon. Member spoke just now.

Mr. Speaker: He was not present at the meeting as he did not belong to the Congress Party, to which the hon. Member belongs and that makes a lot of difference.

Dr. Ambedkar: In view of what I stated in the remarks which I made on my motion I do not think I can accept this amendment.

The motion was negatived.

Clause 69

***Mr. Speaker:** Is he suggesting that the Election Commissioner should be given the power of making rules like that?

Pandit Thakur Das Bhargava: He can ask the candidate to choose one seat. Under the rules he can himself say that he wants to retain such and such a seat. In case of illness or other contingency he should be asked by the Election Commissioner which seat he wants to retain. In case of gross contingency the penalty may come in if at all.

Dr. Ambedkar: What the hon. Member is suggesting is really unnecessary, because this is entirely left to the

*P.D., Vol. 12, Part II, 23rd May 1951, pp. 9250-51.

candidate. All that is necessary is that he should exercise his choice within the prescribed time. He has been given power under this very clause to say whether he wants to retain constituency No. A. B. or C. Therefore there is no occasion or necessity for the Election Commissioner either to enquire from him or to make a decision on his behalf that he should be allowed to retain one seat. The choice is entirely in the hands of the candidate and I do not know whether such a provision is at all necessary.

Mr. Speaker: His point seems to me to be that, it is possible that this contingency may be out of sight of the candidate who is elected and therefore the Election Commissioner would do better, if he sent something by way of a reminder informing the candidate that he stands to lose all the seats.

Dr. Ambedkar: I do not think that such a contingency could be contemplated for, the simple reason that every candidate elected will certainly arm himself with a copy of the rules. And he may be presumed to have read the rules. Another difficulty which I see is this, that even if an obligation was imposed upon the Election Commissioner to make an enquiry then he must fulfil that obligation with regard to every such candidate

Pandit Thakur Das Bhargava: There will be very few who will be returned from more than one constituency—he must be a very popular man who is elected from more than one constituency.

10-00 A.M.

Mr. Speaker: The contingency is more academic.

***Shri S. N. Das:** I request the Hon. Minister again to agree to the suggestion that expenses should be minimized in the elections. The whole work should be done in accordance with it and the rule-making authority as well as the Ministry should frame rules keeping all these things in view so that the real representatives of the people, even if they are not rich, may be easily elected.

Dr. Ambedkar: I do not accept the amendment.

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* P. D., Vol. 12, Part II, 23rd May 1951, p. 9272.

Clause 80

***Shri Hathi** (Saurashtra)**:** Sub-clauses (a) and (b) deal with the category of persons who have to send the petition. Sub-clause (c) deals with the method. As it originally stood, the categories of persons and the methods were connected together. It is simply in order to separate the categories of persons and the method by which it is to be sent that this amendment seems to have been moved. The amendment does not in any way alter the substance. It is only a better way of expression.

Dr. Ambedkar: Yes, that is the same thing. I need not add anything more to what the hon. Member has said.

Shri Kamath : Shall we add 'with acknowledgment due' ?

Mr. Deputy Speaker: We need not add it. All that is necessary is that it must be delivered to the other side. The question is:

> For sub-clause (2) of clause 80, substitute the following sub-clause:
>
> "(2) An election petition shall be deemed to have been presented to the Election Commission—
>
> (a) when it is delivered to the Secretary to the Commission or to such other officer as may be appointed by the Election Commission in this behalf—
>
> (i) by the person making the petition, or
>
> (ii) by a person authorised in writing in this behalf by the person making the petition; or
>
> (b) when it is sent by registered post and is delivered to the Secretary to the Commission or the officer so appointed."

The motion was adopted.

****Mr. Deputy Speaker:** I do not think it is necessary to labour the point. What has the Law Minister to say on the amendment ?

Dr. Ambedkar: I accept the amendment.

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* P. D., Vol. 12, Part II, 23rd May 1951, pp. 9280-81.

** *Ibid.,* p, 9282.

Clause 85

*** Shri Satish Chandra:** The House adjourned yesterday to discuss the amendments informally. We adjourned from that informal meeting at 1 o'clock and I gave notice of my amendment at 1 P.M. But it has been admitted in today's date.

Mr. Deputy Speaker: Was this matter discussed and agreed upon in the informal committe?

Dr. Ambedkar: Yes, it was agreed upon.

Mr. Deputy Speaker: Was it agreed that no advocate ought to be there ?

Dr. Ambedkar: Nobody wants any advocate. The matter can arise only by deleting part (b) of sub-clause (2). It cannot arise on this.

Mr. Deputy Speaker: Even accepting the clause as it stands he cannot avoid any advocate.

Shri Satish Chandra: I would suggest that this clause may be held over. The Members had no opportunity of giving any notice of amendments after yesterday's informal discussion. Notice has been given by me after the discussion but it will come up only tomorrow. If you allow me to move my amendment of which I have given notice, I shall do so.

Mr. Deputy Speaker: Not that I am bound by any of those decisions, but anyhow the hon. Member also had sat in that informal meeting which came to an agreed arrangement with reference to this matter. A contrary decision was arrived at there. Is it worthwhile my allowing the clause to stand over ?

Shri Satish Chandra: I would respectfully submit that out of the 320 Members of the House which adjourned yesterday for the specific purpose of holding an informal discussion on tabled amendments, not as many Members as the strength of the Select Committee on this Bill were present.

Mr. Deputy Speaker: Who is to blame? The Hon. Minister ?

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*P. D., Vol. 12, Part II, 23rd May 1951, pp. 9284-85.

Shri Satish Chandra: I do not blame the Hon. Minister.

Dr. Ambedkar: You yourself were present. Never mind whether others were present or not, you yourself were present.

Shri Satish Chandra: I objected to the amendment, but I was not allowed to have my full say. So, what I wish is that……..

Mr. Deputy Speaker: I am exceedingly sorry that the hon. Member has not tabled an amendment.

Shri Satish Chandra: I have tabled an amendment and its copy is with me. It could not be on the order paper today. I gave it to the Notice Office yesterday after 1 P.M.

Mr. Deputy Speaker: It is a fundamental issue as to whether lawyers are to be trusted or not. Therefore, even before this amendment was tabled he had enough time to give notice of an amendment. I am prepared to waive notice if he is able to show either in the consolidated list or in any of the supplementary lists any amendment standing in his name saying that lawyers are taboo—I would not stand on formality. But if after yesterday's discussion he thinks of a new thing I would not agree to it being moved now.

Shri Satish Chandra: I would submit that this majority of lawyers in the Election Tribunal was created only yesterday. It was not there before.

Dr. Ambedkar: In the amendment moved by my friend, Mr. Munishwar Datt Upadhyay there is no provision that there shall be a majority of lawyers. Only the chairman shall be a judicial officer, but the others may be non-judicial.

Shri Satish Chandra: The two persons out of three may be advocates. I do not know what else is a majority.

Pandit Munishwar Datt Upadhyay: His amendment, if there is any, refers to another clause—it has nothing to do with this clause.

Mr. Deputy Speaker: He does not say he has any amendment.

Shri Satish Chandra : I submit, Sir, that it may be held over. After all there is a difference of opinion among the hon. Members, some of whom feel strongly over this point. Just as other clauses have been held over. I suggest, this also may be held over and may be allowed to come up later. If it is held over it is possible there might be some agreed formula to satisfy all.

Dr. Ambedkar: I do not think there is any ground for holding it over.

Shri J. R. Kapoor: I am not entirely in favour of what Mr. Satish Chandra has been arguing, but then all of a sudden it does strike me that there is some point of fundamental importance that he has been arguing, and it is that Mr. Munishwar Datt's amendment to part (b) of sub-clause (3) of clause 85 stipulates that instead of one there shall be two members selected by the Election Commission from either of the lists maintained by it under sub-clause (2). But these two could be selected not necessarily only from the list under part (a) but from both the lists under parts (a) and (b).

Dr. Ambedkar: In which case his objection vanishes.

Shri J. R. Kapoor: So that objection goes.

Shri Kamath : May I point out that the acceptance of the amendment of Mr. Upadhyay by the Law Minister and perhaps later on by the House lends some point to the question raised by my friend Mr. Satish Chandra ? Clause 85 sub-clause (3) as it stands reads as follows:

> "Every Tribunal appointed under sub-section (*1*) shall consist of—
>
> (*a*) a Chairman who shall be either a person who is or has been a judge of a High Court or a person selected by the Election Commission from the list maintained by it under clause (a) of sub-section (2); and
>
> (*b*) one other member selected by the Election Commission from either of the lists maintained by it under sub-section (2):"

The acceptance of the amendment of Mr. Upadhyay will lead to this, that the two members he proposes in place of one can be selected from either of these lists, that is to say the posibility is there that both of them can be from the list mentioned in part (b).

Dr. Ambedkar: There is also the possibility of all the three people being taken from the list mentioned under (a).

Shri Kamath: I agree, but the clause as it stands would have precluded the majority of persons mentioned in part (b) because there were only two members of which one would necessarily be a District Judge, that is from the list under (a) or a High Court Judge, and the other would have been an advocate. And therefore, both of them would not have been advocates …… I do agree with my friend, Mr. Satish Chandra that either the clause be held over or you waive notice for the amendment which he has given notice of. If you waive notice his amendment will be discussed in the House, otherwise it will be unfair to him and the House if his amendment is not allowed to be moved and the clause is put to the House as amended by the amendment of Mr. Upadhyay.

Shri T. T. Krishnamachari: I think quite a lot is being made about a clause which does not merit so much time.

Shri Kamath: That is in your view.

Shri T. T. Krishnamachari: That is my view and I hope it will be the view of the House.

Shri Kamath: I hope not.

Shri T. T. Krishnamachari: The merit of accepting my hon. friend, Mr. Upadhyay's amendment is that the elaborate improvision contemplated in clause 103 is done away with and I feel to that extent it is something which is commendable. The other point, as you were good enough to suggest, is whether the operation of clause 104 should continue in view of the fact that the chance of the High Court considering it as a side issue if there is a difference of opinion, is now removed…… Notwithstanding the vehement objection of my hon friend, Mr. Kamath I would allow the whole thing to pass as it is if the House approves.

I commend the amendment for acceptance of the House.

Mr. Deputy Speaker: Is it not a fact that as the Bill originally stood in case of a difference of opinion between the chairman and the member and the case taken up to the High

Court there was a guarantee that two judicial officers will bring to bear their judgment on the case ? That provision is taken away now and now it is open to the appointing authority to appoint both the members from among advocates. Why should there be such a radical change between the provisions of the Bill and the amemdment contemplated, which may bring in persons who may take part in politics ?

Shri T. T. Krishnamachari : So long as the appointments vest in the Election Commissioner, we can leave it to him to see that the people who are appointed are above suspicion.

Dr. Ambedkar: May I say a word, Sir to clear the matter ? Really the substantial question that we have to consider is whether we should retain the provisions contained in clause 103,—that is the fundamental point,—whether we want this, matter to be so dragged as to require the intervention of the High Court. The Committee all along felt that we have no idea as to the number of election petitions and we have no idea as to whether the judicial staff that would be wanted for the purpose of disposing of the election petitions would be adequate for the purpose of constituting the necessary number of tribunals. That was the difficulty that we have all along felt. Consequently we decided in the Select Committee that sub-clause (b) be added—I think you will remember that,—on account of the difficulty that was felt that if the personnel was confined only to judicial officers in the service of the Government there may be great difficulty. Therefore sub-clause (b) was brought in.

Now, with regard to the question that a lawyer may be appointed who might have played some part in politics and may have developed some kind of a bias in favour of one party as against the other, or who may have been a candidate in an election that difficulty is sought to be met in two ways. The first is this: that it is not every advocate who would be eligible for the purpose of being appointed. The restrictions are very many. First of all he must be a lawyer who is approved by the High Court. You will see the words are: "a list of advocates of that High Court who have been in practice for a period of not less than ten years and who are in the opinion of the High Court, fit to be appointed as such members." I

have no doubt in my mind that when the High Court recommends any particular advocate to be appointed to the Tribunal, it will take into consideration the political affiliations of the particular advocates whom it is recommending. Secondly, the High Court again is only a recommendatory body. The final appointment is to be made by the Election Commission and I have no doubt in my mind again that the Election Commission in order to maintain fair practices in election will further examine the list given by the High Court to find out whether any man is there on their list as recommended by the High Court who should be excluded by reason of the fact that he is a political individual or has been a defeated candidate or belongs to any particular party.

I agree the question whether advocates should be admitted or not to these appointments is a seperate question. But the possibility of including political advocates as members of the Tribunal, I think has been for all practical purposes more or less eliminated by the two provisions, namely, that it has been made subject to the recommendations of the High Court and secondly it has been made subject to the right of the Election Commission to select any particular individual or not. I, therefore, think that the fear is more or less groundless.

Mr. Deputy Speaker: Advocates of ten years' standing are eligible to be appointed as High Court Judges—is it not ? Therefore, persons who are qualified to be High Court Judges will alone be selected.

Dr. Ambedkar: Even after that if it is found out that he is politically interested in anybody, the Election Commission has got the power to exclude him. These are very rigorous and stringent conditions.

Shri Kamath: A person when he goes from the Bar to the Bench behaves differently but here the posibility is not obviated of this Tribunal being weighted by two advocates, thereby detracting from its judicial character.

Dr. Ambedkar: At that rate, why do you suppose that a retired sub-judge may not be a politician ? After all he is a retired man and is free to take part in politics.

Shri Kamath: Then delete that even.

Dr. Ambedkar: That would be further reducing the available resources for appointing the Tribunal.

Shri Shiv Charan Lal (Uttar Pradesh)**:** I think, Sir, the contingency which Mr. Kamath thinks might arise was already there. Previously also, when two persons were to be appointed, one a Chairman and the other an advocate, both could be advocates. Sub-clause (a) says "a Chairman who shall be either a person who is or has been a judge of a High Court." You know, Sir, that at least half of the Judges of the High Court are appointed from the advocates of the High Court. Suppose a man who was an advocate last year has been appointed a Judge of the High Court and he was appointed Chairman ? In that case both would be advocates.

Mr. Deputy Speaker: Once he is appointed a judge he sheds his colour of an advocate.

Shri Shiv Charan Lal: He might have been appointed a High Court Judge only a month before.

Shri J. R. Kapoor: The only apprehension that is troubling the minds of some of my hon. friends is that there is a possibility that the two members of the Tribunal other than the Chairman, may be advocates. To remove that apprehension. I would suggest a slight amendment.

Dr. Ambedkar: I have asked my hon. friend Pandit Munishwar Datt Upadhyay to move an amendment.

Shri J. R. Kapoor: I suggest that part (b) of sub-clause (3) of clause 85 be amended in the following manner, that for the present words the following words be substituted:

> "(6) two other members selected by the Election Commission either from the list maintained by it under part (a) of sub-section (2), or one from each of the list maintained by it under sub-section (2)."

It means that both the non-Chairman members may be from the list maintained under part (a) of sub-section (*2*)……. This is my amendment and if I have your permission I might move it.

Pandit Munishwar Datt Upadhyay: This difficulty will be solved by the omission of the words "either of" occurring in part (b) of sub-clause (3). The amendment will read as:

> In part (b) of sub-clause (3) of clause 35 omit the words "either of".

Shri J, R. Kapoor: That would not meet the point.

Shri Satish Chandra: I would suggest the substitution of the word "each" for the word "either" in part (b).

Mr. Deputy Speaker: If it is understood that the hon. the Law Minister is also agreeable to this amendment, we can make it easy. Even in item (a) of sub-clause (3) we can say that the Chairman and one other member shall be persons who are either High Court Judges or who are in the list under sub-clause (2)(a) and one other member shall be a person from the list under sub-clause (2) (b).

Dr. Ambedkar: If the words "either of" remain it may be possible that both of them may be appointed exclusively from one list. We do not want that. If we drop the words "either of" then that possibility does not remain.

Shri J. R. Kapoor: Even then it remains.

Mr. Deputy Speaker: It does not prevent the Commission from appointing from either list.

Shri T. T. Krishnamachari: It should be one from each.

Shri Kamath: Instead of "from either" if you make it "one from each" it will be clear and free from doubt.

Mr. Deputy Speaker: "One from each of the lists"?

Shri J. R. Kapoor: So that the advocate must always necessarily be there !

Dr. Ambedkar: I have no objection. If people have so much prejudice against advocates what can I do ?

Mr. Deputy Speaker: I shall put the amendments in their order. I shall first put Pandit Munishwar Datt Upadhyay's amendment. The question is:

> In part (b) sub-clause (3) of clause 85, for the words "one other member" substitute the words "two other members".

The motion was adopted.

Mr. Deputy Speaker : Now, the other amendment is that for the words "from either" the words "one from each" be substituted.

Dr. Ambedkar: It is a very tightening situation.

Mr. Deputy Speaker: I leave it to the Hon. Minister. Is it his desire that I should put it ?

Dr. Ambedkar: Yes.

Shri Karunakara Menon: May I point out that it takes away the possibility of the Tribunal consisting of all the three members being government servants ? Whether it is proper or not is a matter to be considered.

Mr. Deputy Speaker: It is pointed out that it is advantageous to the lawyers also because there must be at least one lawyer and not all Government servants.

Further amendment made:

In part (b) of sub-clause (3) of clause 85, for the words "from either" substitute the words "one from each".

— [*Shri T. T. Krishnamachari*]

Mr. Deputy Speaker: Now I shall put amendment No. 18 (consolidated List No. 2). It is a consequential amendment.

The question is :

In the second Proviso to sub-clause (3) of clause 85, for the word "member" substitute the word "members".

The motion was adopted.

Mr. Deputy-Speaker: The question is :

"That clause 85, as amended, stand part of the Bill."

The motion was adopted.

Clause 85, as amended, was added to the Bill.

Clause 86 to 93 were added to the Bill.

Dr. Ambedkar: Sir, I was going to suggest that the House might adjourn now and allow me to sit with the Members who have tabled amendments, to consider the clauses from 94 and then we can meet tomorrow, so that we may not have

again the difficulty of moving amendments which subsequently may be withdrawn or amendments which I have not yet had time to consider and come to any definite conclusion. I make this humble suggestion for your consideration and for the consideration of the House whether they would agree to it, so that we could meet right now for that purpose and also, if necessary, in the afternoon.

Several Hon. Members: Yes, yes.

Mr. Deputy Speaker: Very well. I think the suggestion is acceptable to the House, but I would like to make one suggestion before I adjourn the House. I find that though the conferece was very fruitful still a number of hon. Members did not avail themselves of it. I would urge upon hon. Members, all of them, to gather in the conference so that whatever they want to say here they may thrash out there and try to reach an agreement. If in spite of it there is a difference of opinion, they can always come to the House and take a vote. But many matters or matters in respect of which their may be misunderstanding may be thrashed out at the conference in an informal way and the misunderstanding removed.

Dr. Ambedkar: Everyone is invited.

Mr. Deputy Speaker: Though it is not a formal reference to a Committee of the whole House, it is as good as that. It is for hon. Members to sit there, voice forth their views and support or oppose amendments and come to conclusions. I hope that much of the discussion will be cut off tomorrow and that many of the clauses will be carried.

Shri Kamath : Your suggestion will apply only in respect of matters where there is unanimity of opinion. If there is difference of opinion, they have to be a discussed here.

Dr. Ambedkar: The majority decision must be accepted.

Shri Kamath: Not at all.

Mr. Deputy Speaker: Unanimity is always a percentage. As far as possible, doubts will be ironed out at the conference.

The House now stands adjourned till 8-30 tomorrow.

The House then adjourned till Half Past Eight of the Clock on Thursday, the 24th May, 1951.

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*REPRESENTATION OF THE PEOPLE (No. 2) BILL—*contd.*

Mr. Speaker: The House will now proceed with the further discussion of the Representation of the People (No. 2) Bill. 9-00 P.M. Clauses up to 93 were disposed of yesterday when the House adjourned for an informal discussion of the amendments tabled on the remaining clauses with the Hon. Minister of Law. The House will now take up clause 94. I should like to know what has been the result of the informal conference among Members.

The Minister of Law (Dr. Ambedkar): Sir, we have gone quite a long way up to clause 135. But I would be still asking your permission and the permission of the House to adjourn at about 11, or half-past eleven, as it suits us, because I would like to have a meeting again to finish off the whole. The difficulty is that in the afternoon there is another meeting and it would not be possible for the Committee of the House to meet to discuss this matter. I hope you will grant me this indulgence.

Mr. Speaker: I am prepared even to rise earlier, provided we could finish this off.

Dr, Ambedkar: The trouble is this that every Member regards himself as a possible candidate when he is discussing this Bill and he sees all sorts of difficulties that may come in his way.

An hon. Member: Including the Minister.

Mr. Speaker: When he says every Member of course the Minister is included.

I shall follow the procedure which we followed yesterday. I shall first ask as to whether any amendments are going to be moved and if so to what clauses. There are no amendments to clauses 94 to 97.

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*P.D., Vol. 12, Part II, 23rd May 1951, pp. 9296-9305.

Clauses 94 to 97 were added to the Bill

Clause 98.—(*Other orders by the Tribunal.*)

Shri J. R. Kapoor (Uttar Pradesh)**:** There are two amendments standing in the name of Pandit Thakur Das Bhargava. He being absent, if you will permit me. I will move them with some changes in the phraseology.

Mr. Speaker: Are they accepted amendments ?

Shri J. R. Kapoor: Yes, Sir.

Mr. Speaker: The question is:

"That clause 119, as amended, was added to the Bill.

The motion was adopted.

Clause 119, as amended, was added to the Bill.

Clause 120.—(*Payment of costs.*)

Dr. Ambedkar: I have an amendment to clause 120. It merely divides the clause into two sub-clauses and the second sub-clause would begin from the words "If there is.....", omitting the word "and" before them. The clause has been divided into two sub-clauses because it is a very big clause running into fifteen lines.

Amendment made:

For clause 120, substitute the following clause:

"120. *payment of cost out of security deposits and return of such deposits.*—(1) If in any final order as to costs under the provisions of this Part there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full, or so far as possible, out of the security deposit and the further security deposit, if any, made by such party under this Part, on an application made in writing in that behalf within a period of six months from the publication of such final order under section 105 to the Election Commission by the person in whose favour the costs have been awarded.

(2) If there is any balance left of any of the said security deposits after payment under sub-section (*1*) of the costs referred to in that subsection, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of six months, the whole of the said security deposits, may on an application made in that behalf in writing to the Election Commission by the person by whom the deposits have been made, or if such person dies after making

such deposits, by the legal representatives of such person, be returned to the said person or to his legal representatives, as the case may be."

—[*Dr. Ambedkar*]

Mr. Speaker: The question is:

"That clause 120, as amended, stand part of the Bill."

The motion was adopted

Clause 120, as amended, was added to the Bill.

Clause 121.—(*Execution of orders as to costs.*)

Dr. Ambedkar: I have to move a consequential amendment on account of the division of the original clause 120 into two sub-clauses.

Amendment made:

In the proviso to clause 121—

(*a*) for the words and figures "under section 120" in the first place where they occur, substitute the words, brackets and figures "under sub-section (1) of section 120";

(*b*) for the words and figures "under section 120" in the second place where they occur, substitute the words "under that sub-section";

(*c*) for the words "in that section", substitute the words "in that subsection".

—[*Dr. Ambedkar*]

Mr. Speaker: The question is:

"That Clause 121, as amended, stand part of the Bill.

The motion was adopted.

Clause 121, as amended, was added to the Bill.

Mr. Speaker: Then we come to the other amendments.

Dr. Ambedkar: I suggest that clauses 122, 123 and 124 may be kindly held over.

Mr. Speaker: Clauses 122, 123 and 124 are held over for the time being.

Clause 125—(*Prohibition of election meeting on the election day.*)

Dr. Ambedkar: I beg to move:

(i) In sub-clause (1) of clause 125, for the words "political meeting" substitute the words "public meeting".

(ii) In sub-clause (1) of clause 125, omit the words "or on the day immediately preceding that date or the first of those dates".

Mr. Speaker: Then I shall put the clause to vote.

Shri Kamath (Madhya Pradesh)**:** May I ask the Hon. Minister for a clarification, whether the preceding day means the day up till midnight or the day up to sunset ?

The Minister of State for Transport and Railways (Shri Santhanam): Anyhow the word is being deleted and the question does not arise.

Shri Kamath: It does because meetings on the previous day will not be prohibited.

Dr. Ambedkar : It is an academic question but if my hon. Friend presists I think that 'midnight' would be the proper word.

The motion (of Dr. Ambedkar as mentioned above) was adopted.

Mr. Speaker: The question is:

"That clause 125, as amended, stand part of the Bill."

The motion was adopted.

Clause 125, as amended, was added to the Bill.

Clause 126.—(*Disturbances at election meetings.*)

Amendment made:

In sub-clause (2) of clause 126, for the words "political meetings", substitute the words "public meeting of a political character".

—[*Dr. Ambedkar*]

Mr. Speaker: The question is:

"That clause 126, as amended, stand part of the Bill."

The motion was adopted.

Clause 126, as amended, was adopted to the Bill.

Clause 127 was added to the Bill.

Clause 128—(*Officers not to influence voting*) Amendment made:

In sub-clause (1) of clause 128, for the words "shall act as an agent of a candidate in the conduct or the management of the election",

substitute the words "shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate".

[*Dr. Ambedkar*]

Further amendment made:

In sub-clause (3) of clause 128, for the words "three months", substitute the words "six months".

—[*Dr. Ambedkar*]

Mr. Speaker: The question is:

"That clause 128, as amended, stand part of the Bill."

The motion was adopted.

Clause 128, as amended, was added to the Bill.

Clause 129.—(*Prohibition of canvassing.*)

Mr. Speaker: I take it that there are no amendments to this clause.

Shri S. N. Das (Bihar): I have an amendment, No. 174 in consolidated List No. 2 and that amendment was accepted yesterday.

Mr. Speaker: The question is:

"That clause 129 as amended, stand part of the Bill."

The motion was adopted.

Clause 129, as amended, was added to the Bill.

Clause 130.—(*Penalty for disorderly conduct.*)

Amendment made:

In sub-clause (1) of clause 130, for the words "during the hours fixed for the poll", substitute the words "on the date or dates on which a poll is taken".

—[*Dr. Ambedkar*]

Mr. Speaker: The question is:

"That clause 130, as amended. stand part of Bill."

The motion was adopted.

Clause 130, as amended, was added to the Bill.

Dr. Ambedkar: I would at this stage request you to adjourn the House, because we have exhausted all the clauses which we had agreed upon.

Mr. Speaker: The House may adjourn now for the informal meeting which will take place, as I am told, in the council of State hall and immediately after we disperse from here.

Shri Kamath: Have you. Sir, any objection to our meeting in this Chamber which is cooler?

Mr. Speaker: The convention up to now has been that unless the Speaker, the Deputy Speaker or the Chairman is in the Chair, no meetings can take place in this House.

Dr. Ambedkar: It is a good ground for not meeting here.

The House then adjourned till half Past Eight of the Clock on Friday, the 25th May 1951.

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*REPRESENTATION OF THE PEOPLE (No. 2) BILL.—*contd.*

Mr. Speaker: The House will now resume discussion on the Representation of the People (No. 2) Bill. Clauses upto 130 were disposed of yesterday when the House adjourned for an informal discussion of the amendments tabled on the remaining clauses with the Hon. the Minister of Law. The House will now take up clause No. 131. I should like to know how the position stands today.

The Minister of Law (Dr. Ambedkar): We have finished the whole thing except one or two clauses, which I would request to be held over.

Mr. Speaker: Then I shall follow the same procedure. I shall call the particular clause and any hon. Member who wishes to move an amendment will kindly invite my attention to it.

Clause 131 was added to the Bill.

Clause 132.—(*Penalty of illegal hiring*)

Shri Bhatt (Bombay)**:** Further consideration of clause 132 may be postponed as it is related to clause 122. So long as clause 122 is not taken up this clause also may not be taken up.

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*P. D., Vol. 12, Part II, 25th May 1951, pp. 9308-20.

Mr. Speaker: Has the Hon. Law Minister heard what the hon. member has stated ? He wishes that further consideration of clause 132 be postponed and be taken along with clause 122.

Dr. Ambedkar: I agree that it may be held over.

Clause 133 was added to the Bill.

Clause 134 was also added to the Bill.

Clause 135.—(*Other offences*)

Amendment made:

After part (a) of sub-clause (1) of clause 135, insert the following:

"(aa) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a Returning Officer; or".

—[*Dr. Ambedkar*]

The motion was adopted.

Clause 135, as amended, was added to the Bill.

Clause 136.—(*Special provisions for complaint*)

Amendment made:

For clause 136, substitute the following clause:

"136. *Prosecution regarding certain offences.*—(1) If the Election Commission or a Regional Commissioner appoiinted under clause (4) of article 324 or the Chief Electoral Officer of the State has reason to believe that any offence punishable under section 128, or under section 133 or under clause (a) of sub-section (2) of section 135 has been committed in reference to any election within a State, it shall be the duty of the Election Commission, the Regional Commissioner or the Chief Electoral Officer, as the case may be, to cause such inquiries to be made and such prosecutions to be instituted as the circumstances of the case may appear to it or him to require.

(2) No court shall take cognizance of any offence punishable under section 128 or under section 133 or under clause (a) of sub-section (*2*) of section 135 unless there is a complaint made by order of or under authority from the Election Commission or a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State concerned."

—[*Dr. Ambedkar*]

Mr. Speaker: The question is:

"That clause 136 as amended, stand part of the Bill."

The motion was adopted.

Clause 136 as amended was added to the Bill.

Dr. Ambedkar: There are no amendments to clauses Nos. 137 to 143.

Pandit Thakur Das Bhargava (Punjab)**:** With regard to clause 139, unless clauses 122 to 124 are disposed of, it will be difficult to dispose it of. You have been pleased to hold over clauses 122 to 124 and clause 139 has relation to those clauses.

Mr. Speaker: The hon. Member wants clause 139 to be held over?

Pandit Thakur Das Bhargava: Yes, Sir.

Mr. Speaker : I will put the motion in a different way then.

Shri J. R. Kapoor (Uttar Pradesh)**:** I suppose it will be open to move for an addition of a new clause i.e. clause 132A later on, because that will also depend upon some previous clauses. I would like to add a new clause.

Mr. Speaker: In case it does not contravene the previous decision of the House, the hon. Member is entitled to move it. I will put the motion in a different form now.

The motion was adopted.

Clauses 137 and 138 were added to the Bill.

Clauses 140 to 143 were added to the Bill.

Clause 144.—(*Disqualification for being an election agent*)

Dr. Ambedkar: I beg to move:

> In clause 144, omit the words "or a polling agent".

Shri Iyyunni (Travancore-Cochin)**:** I have also an amendment.

Mr. Speaker: Has he anything to say on this amendment ? We will come to his amendment later.

Dr. Ambedkar: It is his amendment which I am moving.

Shri Iyyunni: My amendment is that in the marginal heading to clause 144, the words "or polling agent" be omitted and the clause 144 also the words "polling agent" be omitted.

Dr. Ambedkar: Marginal headings will be corrected afterwards.

Mr. Speaker: I am not putting the marginal headings at all to the House. hon. Members will have noticed that I am dropping out the marginal headings. That is the business of the draftsmen. It is not part of the statute. The question is:

In clause 144, omit the words "or a polling agent".

The motion was adopted.

Mr. Speaker: The question is:

"That clause 144, as amended, stand part of the Bill"

The motion was adopted.

Clause 144, as amended was added to the Bill.

Clause 145 was added to the Bill

Clause 146.—(*Casual vacancies in Council of States*)

Amendment made:

In clause 146, for the words "the members of the Legislative Assembly or electoral college concerned" occurring in line 5, substitute the following:

"the elected members of the Legislative Assembly or the members of the electoral college concerned."

— [*Dr. Ambedkar*]

Mr. Speaker: The question is :

"That clause 146, as amended stand part of the Bill."

The motion was adopted.

Clause 146, as amended, was added to the Bill.

Clauses 147, 148 and 149 were added to the Bill.

Clause 150.—(*Vacancies in State Legislative Councils*)

Pandit Thakur Das Bhargava: An amendment was agreed that the election shall be held within four months. But, that is not here on the paper. Therefore, I would beg of you to hold over this clause.

Dr. Ambedkar: It was not accepted, I believe. My record does not show that. Let the amendment be moved, whatever it is.

Sardar Sochet Singh (P.E.P.S.U.)**:** It was agreed.

Mr. Speaker: Let us hold it over.

Clause 151.—(*List of members to be maintained*).

Amendment made:

For sub- clause (1) of clause 151, substitute the following:

"(1) The Returning Officer for an election by the elected members of the Legislative Assembly of a State to fill a seat or for an election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State shall for the purposes of such election maintain in his office in the prescribed manner and form a list of elected members or a list of members, as the case may be of that Legislative Assembly."

—[*Dr. Ambedkar*]

Mr. Speaker: The question is:

"That clause 151 as amended, stand part of the Bill."

The motion was adopted.

Clause 151, as amended, was added to the Bill.

Clause 152 to 156 were added to the Bill.

10-00 A.M.

Clause 157.—(*Return or forfeiture of deposits*)

Amendment made:

In sub-clause (1) of clause 157, after the words "by whom" occurring in line 1, insert the words "or on whose behalf.

—[*Dr. Ambedkar*]

Further amendment made:

In sub-clause (1) of clause 157, for all the words beginning with he words "the deposit shall be returned" to the end, substitute the following:

"the deposit shall be returned to the person by whom it was made and, if any candidate dies before the commencement of the poll, any such deposit, if made by him, shall be returned to his legal representative or, if not made by the candidate, shall be returned to the person by whom it was made."

—[*Dr. Ambedkar*]

Further amendment made:

In sub-clause (2) of clause 157, after the words "by whom" occurring in line 1, insert the words "or on whose behalf."

—[*Dr. Ambedkar*]

Further amendment made:

In sub-clause (4) of clause 157, after the words "deposit made by" occurring in line 1, insert the words "or on behalf of ".

—[*Dr. Ambedkar*]

Further amendment made:

In sub-clause (4) of clause 157, for the words "be returned to him" occurring in line 3, substitute the following:

"be returned to such candidate or to the person who has made the deposit on his behalf, as the case may be."

—[*Dr. Ambedkar*]

Further amendment made:

In the first Proviso to sub-clause (4) of clause 157, after the words "deposits made by him" occuring in line 3, insert the words "or on his behalf ".

—[*Dr. Ambedkar*]

Further amendment made:

In the second Proviso to sub-clause (4) of clause 157, after the words "deposits made by him" occuring in line 4, insert the words "or on his behalf."

—[*Dr. Ambedkar*]

Shri Bhatt: There is an amendment No. 212.

Dr. Ambedkar: I will move that separately.

Further amendment made:

In sub-clause (2) of clause 157, for the word "one-eighth" in the two places where it occurs ; substitute the word "one-sixth".

—[*Dr. Ambedkar*]

Mr. Speaker: The question is :

"That clause 157, as amended, be added to the Bill."

The motion was adopted.

Clause 157, as amended was added to the Bill.

Clause 158 was added to the Bill.

New Clause 158A.

Dr. Deshmukh (Madhya Pradesh)**:** Sir, I have to move for the insertion of the following amendment. In England, they have not only a provision similar to the one. I am asking, but they have framed certain rules for regulating the granting of accommodation for this purpose and these have not led to any difficulty whatsoever. I therefore, urge that this amendment may be accepted.

Dr. Ambedkar: I am afraid this will create a lot of difficulties and I am not prepared to accept this amendment.

Mr. Deputy Speaker: Let me first of all ascertain from the hon. Member if it is necessary for me to place the amendment before the House.

Dr. Deshmukh: No, but some hon. Members may desire to speak.

Mr. Deputy Speaker: The hon. Member has moved his amendment and as I understand it, the procedure is if I place it before the House, the House gets seized of it. I asked for the reaction of the Law Minister and he said that he is not accepting the amendment. And the hon. Member has rightly said that it is not necessary for me to place it before the House. When I place it before the House, then every Member is entitled to talk on it; and at that stage the hon. Member who has moved it can withdraw it with the leave of the House.

Dr. Deshmukh: In view of the fact that there are a lot of hon. Members of this House who are keen and who are impressed by the reasonings I have given, they may be allowed to speak on this amendment and then .....

Pandit Thakur Das Bhargava: Sir, this will be a bad precedent. If it is not to be put to the House, it need not be discussed.

Shri Kamath (Madhya Pradesh)**:** The hon. Member moved the amendment and it should be discussed. When an amendment is moved, the House is seized of it.

Mr. Deputy Speaker: I take it as a point of order. My ruling is this that until the moment.....

Shri Syamnandan Sahaya (Bihar)**:** Parliamentary system of Government is by discussion and persuasion. The hon. Dr. Deshmukh is not able to persuade the Hon. Law Minister. It is possible my friend Mr. Kamath may be able to persuade the law Minister by his arguments. So, why not give some chance for discussion ?

Mr. Deputy Speaker : The point raised here is at what stage does the House get seized of a motion. It is not as if as soon as any hon. Member gives notice of an amendment, moves it, the House gets seized of it. The Speaker has to place it before the House and then only the House gets seized of it. But at that stage it is open to the hon. Member not to press it. I asked the Law Minister to give his reaction. He said briefly that he is not agreeable to it. If the hon. Member wanted me to put the Amendment to the House, I would have done so and then there could be some discussion, and the Hon. Law Minister would have convinced the House about his attitude, in reply. Then ultimatly it would be for the House to decide the matter. At that later time if the hon. Member who made the motion wanted to withdraw, the consent of the House would be necessary. It is quite possible that the House might have been convinced one way or the other and therefore it would be for the House to allow the hon. Member to withdraw or not. Here I asked the Hon. Law Minister and after hearing him the hon. Mover did not press the motion. Therefore, I did not put the motion to the House and it is not seized of it. I cannot therefore, put any motion to the House merely to satisfy a number of hon. Members for the purpose of talking on this matter. I am not going to allow any improper spending of the time of the House.

So far as Mr. Sahaya's point is concerned, it is open to any other Member if he was satisfied with the amendment, to have himself given notice of the amendment. I cannot allow any hon. Member to take advantage of any amendment in somebody else's name. The time of the House is so precious that I cannot allow any discussions which are not germane to any issue before it.

Shri Kamath: Do the Rules of Procedure of the House .....

Mr. Deputy Speaker: Is there no rule to regulate the hon. Member not to stand in his seat when the Deputy Speaker is standing ?

Shri Kamath : There is a convention that when a Member wishes to be heard, he should be allowed to have his say.

Mr. Deputy Speaker: I am afraid that accusation cannot be levelled against me. I am always erring on the other side. I allow him to speak often. Now the amendment is not before the House. This is my ruling. The hon. Member must have some sense of decency and decorum.

Shri Kamath : I must protest against the use of the word "Decency".

Mr. Deputy Speaker: Protesting is improper.

Shri Kamath: I must protest again.

Mr. Deputy Speaker: This kind of unruly conduct in the House cannot be tolerated. An hon. Member moves a motion and another says that he wants to speak on this. Who is to decide ? Shall I ask the hon. Member to take my place here ? There must be somebody to regulate the proceedings. I come to the conclusion that the House is not seized of this problem as the Hon. Mover does not press it. Till I put it to the House, the matter is not before the House at all. In spite of this the hon. Member Mr. Kamath wishes to speak and speak on what ? He wants to speak on a motion which is not before the House. When I say it is not right, he protests. Therefore it is for the House to regulate the conduct of Members. I am only the spokesman-. It is not right that any Member should take the time of the House and go on protesting against it. I have no objection to ignore what has happened.

Shri Kamath: I would like to protest strongly .....

Mr. Deputy Speaker : If he protests, then I will ask him to quit the House.

Shri Kamath: I protest .....

Mr. Deputy Speaker: For the day the hon. Member will not enter the House. I do not want to turn out any hon. Member but there must be some sense of decency and decorum in this House. He must submit to the ruling of the Chair, submit to the majority view. Ultimately it is the Chair that reflects the majority view. It also has the right to rule what is a point of order. In spite of that the hon. Member goes on stating that he must control the rest of the House. I do not know if the House will put up with that. It is not my intention to castigate any Member.

Shri Kamath: Dr. Deshmukh never withdrew the amendment.

Mr. Deputy Speaker: He did not press it. I come to the conclusion rightly or wrongly that this motion is not before the House. Is it not final ?

Shri Kamath: By that Dr. Deshmukh means that he does not wish to press it to the vote of the House.

Dr. Deshmukh: I do not want to go back on anything that has happened but in many cases there has been discussion although the motion has not been formally put and even after two or three speeches, the motion has not been put. There have been precedents like that.

Mr. Deputy Speaker: I have been suggesting to hon. Members that if any hon. Member is insistent upon his amendment being put to the House and heard by the House, let him have the courage of moving it and insisting on it being heard by the House. But if he does not want me to put it to the House, he cannot compel the Chair to allow discussion on that.

Pandit Thakurdas Bhargava: No amendment which is not asked to be put to the House has a claim to be discussed in the House.

Mr. Deputy Speaker: I will now proceed

Shri Kamath *rose* —

Shri Sidhva: Order, order.

Shri Kamath: You have no business to call me to order.

Mr. Deputy Speaker: The House will now proceed to its normal work.

Clause 159.—(*Requisitioning of premises*)

Amendment made:

To sub-clause (1) of clause 159, add the following Proviso:

"Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election."

—[*Dr. Ambedkar*]

Mr. Deputy Speaker: The question is:

"That clause 159, as amended, stand part of the Bill."

The motion was adopted.

Clause 159, as amended, was added to the Bill.

Clauses 160 to 166 were added to the Bill.

Dr. Ambedkar: I want clause 167 to be held over. Clauses 168 and 169 may be put to the House, as there are no amendments to them.

Clauses 168 and 169 were added to the Bill.

Dr. Ambedkar: Sir, I want the House to be adjourned and I do want to say also that it may not be possible for me to be ready tomorrow to take up the Bill again. I therefore suggest that the House might consider the possibility of taking some other Bill tomorrow and I shall be ready thereafter. There is I understand, the Boilers Bill which is a small Bill and can be taken up tomorrow. (*Some Hon. Members*: Why not today ?) The Member in charge is not ready as he has had no notice.

The Deputy Minister for Works, Production and Supply (Shri Buragohain): I have not got the papers here.

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): The House may adjourn for half an hour and in the mean time he can go and get the papers.

The Minister of State for Transport and Railways (Shri Santhanam): Sir, I understand that the Hon. Minister of States, Mr. Gopalaswami Ayyangar, will be ready to take up his Bill relating to Part C States but he has had no notice. Perhaps if the House adjourns for half an hour he might be in a position to take up the Bill.

Mr. Deputy Speaker: The House may be adjourned till 11 o'clock and in the mean time hon. Members may go through the Bill and be ready with their amendments.

Dr. Ambedkar: I have also to look into the odds and ends with regard to the amendments which I have accepted on the spur of the moment. I have to see to what extent they require modification and that is why I may not be ready tomorrow.

Shri Bharati (Madras): May I suggest that the discussion on clause 7 may go on but the decision could be postponed for sometime later ? (*Several Hon. Members* : No, no.) In any case the discussion on it is bound to go on and only the decision may be held over.

Mr. Deputy Speaker: The hon. Member is aware that if they come to an agreement with respect to clause 7 and other clauses relating to disqualifications much of the discussion may be avoided. Otherwise they will be only beating the air. So I adjourn the House till 11 o'clock when the House will take up the next motion on the agenda, namely the Government of Part C States Bill.

The House then adjourned till Eleven of the Clock.

REPRESENTATION OF THE PEOPLE (NO. 2) BILL

***Shri Ghule :** I beg to move :

In the amendment proposed by Dr. Ambedkar, printed as No. 2 in Supplementary List No. 7 of amendments, in sub-clause (2) of the proposed new clause 47—

(*a*) for the word "commencement" occuring in line 5 substitute the word "end" and

(*b*) before the words "counting of votes" occurring in line 7, insert the words "end of the"

My amendment is very simple. The provision here should be that before the counting is finished or before the close of the counting he should be able to revoke his name.

The Minister of law (Dr. Ambedkar): I am not accepting the amendment.

Shri Kamath: May I suggest a minor alteration in the marginal heading ? The draftsman may bear in mind that the construction of the marginal heading "Revocation of the appointment or death of a polling agent" is not to my mind happy. It might mean that the word death also is qualified by the word 'revocation'. If 'death' comes first, it will be all right.

Dr. Ambedkar: That will be borne in mind.

Shri Ghule: I do not press my amendment.

Mr. Deputy Speaker: I hope the House is agreeable to the amendment of the marginal heading.

Motion was adopted.

***Clause 51.—**(*Death of candidate before poll*)

Amendment made:

To clause 51, add the following further proviso:

'Provided further that no person who has under sub-section (*1*) of section 35 given a notice of withdrawal of his candidature before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding."

—[*Dr. Ambedkar*]

*P. D., Vol. 12, 28th May 1951, pp. 9480-81.

** P.D., Vol. 12, Part II, 23rd May 1951, pp. 9482-95.

Mr. Deputy Speaker: The question is :

"That Clause 51, as amended, stand part of the Bill".

The motion was adopted.

Clause 51, as amended was added to the Bill.

Clause 59.—(*Voting by certain classes of persons*)

Prof. S. L. Saksena (Uttar Pradesh)**:** Sir, I have given an amendment to this clause.

Mr. Deputy Speaker: What is the number and on which list?

Prof. S. L. Saksena: I am unable to find it; it is not in the printed list.

Shri Shiv Charan Lal (Uttar Pradesh)**:** It is amendment No. 233 in the Revised Consolidated No. I. p. 24.

Sir, Dr. Ambedkar promised to make provision for the candidate and his agents, if they are working in another constituency. That has not been included in his amendment.

Pandit Thakur Das Bhargava (Punjab)**:** He said that rules will be made by which candidates and their agents will be afforded an opportunity of voting by some other method.

Dr. Ambedkar: There is an amendment to clause 167 which deals with this matter. My friend might move his amendment when we discuss clause 167. We can consider then whether we could not add the words "a candidate".

Mr. Deputy Speaker: I shall permit this amendment as an amendment to clause 167.

Shri Hussain Imam: In the amendment of Dr. Ambedkar no provision has been made for transferred officers. An officer transferred from Delhi to Madras, for instance has a right to demand a postal ballot. A clause should be provided here whereby government servants can on transfer demand postal ballot.

Dr. Ambedkar: That matter may also be considered when we deal with clause 167.

Mr. Deputy Speaker: The returning officer may get the ballot papers transferred through post.

Dr. Ambedkar: That is a matter which can be regulated by rules when we come to clause 167.

Amendment made:

For clause 59 substitute the following clause:

"59. *Special procedure for voting by certain classes of persons.*—

Without prejudice to the generality of the provisions contained in section 58, provision may be made by rules made under this Act for enabling—

(a) any of the following persons to give his vote by postal ballot, and not in any other manner, at an election in a constituency where poll is taken, namely:—

(i) a member of the Armed Forces of the Union to whom the provisions of sub-section (*3*) of section 20 of the Representation of the People Act, 1950 (XLIII of 1950), apply;

(ii) a person holding any office in India declared by the President to be an office to which the provisions of sub-section (4) of that section apply;

(iii) a person who is employed under the Government of India in a post outside India and;

(iv) the wife of any such person as is referred to in sub-clauses (i), (ii) and {iii) to whom the provisions of sub-section (6) of the said section 20 apply;

(b) any person subjected to preventive detention under any law for the time being in force to give his vote by postal ballot and not in any other manner, at an election in a constituency where poll is taken subject to the fulfilment of such requirements as may be specified in those rules."

—[*Dr. Ambedkar*]

Mr. Deputy Speaker: The question is "That clause 59, as amended, stand part of the Bill."

The motion was adopted.

Clause 59, as amended was added to the Bill.

Pandit Thakur Das Bhargava: There is an amendment to clause 34A regarding the finality of nomination papers. What is happening to that?

Mr. Deputy Speaker: It has not been taken up. I will first dispose of the Government amendments and will come back to the other amendments of private members.

What about the amendment to clause 122 in list 7 to consolidated list No. II ?

Dr. Ambedkar : I am not ready with that for the moment.

Clause 7.—(*Disqualification for membership*)

Shri Syamnandan Sahaya (Bihar)**:** We have given amendments to the amendments of Dr. Ambedkar. It is better that we take up the clause tomorrow. We have not had any time.

Mr. Deputy Speaker: They can be taken up today. All notice will be waived.

Dr. Ambedkar: Sir, I move 7A, with this modification namely, that in sub-clause (f) for the words "as such member" the words "a Member of Parliament or the Legislature of a State as the case may be" have been substituted. I beg to move:

For clause 7, substitute the following clauses;

7. *Disqualifications for membership of Parliament or of a State Legislature.*—A person shall be disqualified for being chosen as and being a member of. either House of Parliament or of the Legislative Assembly or Legislative Council of a State—

(a) if, whether before or after the commencement of the Constitution, he has been convicted, or has in proceedings for questioning the validity or regularity of an election been found to have been guilty of any offence or corrupt or illegal practice which has been declared by section 138 or section 139 to be an offence or practice entailing disqulification for membership of Parliament and of the Legislature of every State, unless such period has elapsed as has been provided in that behalf in the said section 138 or section 139, as the case may be ;

(b) if, whether before or after the commencement of the Constitution, he has been convicted by a court in India of any offence and sentenced to transportation or to imprisonment for not less than two years unless a period of five years or such less period as the Election Commission may allow in any particular case has elapsed since his release;

(c) if having been nominated as a candidate for Parliament or the Legislature of any State or having acted as an election agent of any person so nominated he has failed to lodge return of election expenses within the time and in the manner required by or under this Act, unless five years have elapsed from the date by which the return ought to have been lodged or the Election Commission has removed the disqualification;

(d) if, whether by himself or by any other person in trust for him or for his benefit or on his account he has any share or interest in a contract for the supply of goods to or for the execution of any services undertaken by the appropriate Government.

(e) if, he is a director or managing agent of or holds any office of profit under any corporation in which the appropriate Government has any share or financial interest;

(f) if, having held any office under the Government of India or the Government of any State or under the Crown in India or under the Government of an Indian State he has whether before or after the commencement of the Constitution been dismissed for corruption or disloyalty to the State unless a period of five years has elapsed since his dismissal.

7A. *Savings*.—(1) Notwithstanding anything in section 7—

(a) a disqualification under clause (a) or clause (b) of that section shall not, in the case of a person who becomes so disqualified by virtue of a conviction or a conviction and a sentence and is at the date of the disqualification a member of Parliament or of the Legislature of a State, take effect until three months have elapsed from the date of such disqualification, or if within these three months an appeal or petition for revision is brought in respect of the conviction or the sentence until that appeal or petition is disposed of;

(b) a disqualification under clause (c) of that section shall not take effect until the expiration of two months from the date by which the return of election expenses ought to have been lodged or of such longer period as the Election Commission may in any particular case allow ;

(c) a disqualification under clause (d) of that section shall not where the share or interest in the contract devolves on a person by inheritance or succession or as a legatee executor or administrator take effect until the expiration of six months after it has so devolved on him or of such longer period as the Election Commission may in any particular case allow;

(d) a person shall not be disqualified under clause (d) of that section by reason of his having a share or interest in a contract entered into between a public company of which he is a shareholder but not a director holding an office of profit under the company or a managing agent and the appropriate Government.

(e) a person shall not be disqualified under clause (e) of that section by reason of his being a director is declared by Parliament by law to so disqualify its holder;

(f) a disqualification under clause (e) of that section shall not, in the case of a director, take effect where the law making any such declaration as is referred to in clause (e) of this section in respect of the office of such director has come into force after the director has been chosen a member of Parliament or of the Legislature of a State, as the case may be, until the expiration of six months after the date on which such law comes into force or of such longer period as the Election Commission may in any particular case allow;

(g) a disqualification under clause (f) of that section may, in the case of any of the candidates for the first elections under this Act, be removed by the Election Commission for reasons to be recorded by it in writing.

7b. *Interpretation,* etc.—(1) In this chapter—

(a) "appropriate Government" means in relation to any disqualification for being chosen as or for being a member of either House of Parliament, the Government of India, and in relation to any disqualification for being chosen as or for being a member of the Legislative Assembly or Legislative Council of a State, the Government of that State;

(b) "public company" means a public company as defined in section 2 of the Indian Companies Act, 1913 (VII of 1913).

(2) For the avoidance of doubt it is hereby declared that where any such contract as is referred to in clause (d) of section 7 has been entered into by or on behalf of a Hindu undivided family and the appropriate government, every member of that family shall become subject to the disqualification mentioned in the said clause (d); but where the contract has been entered into by a member of a Hindu undivided family carrying on a separate business in course of such business, any other member of the said family having no share or interest in that business shall not become subject to such disqualification."

(3) If any question is raised as to whether a person who, having held any office referred to in clause (f) of section 7, has been dismissed is disqualified under that clause for being chosen as a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State, the production of a certificate issued in the prescribed manner by the Election Commission to the effect that such person has not been dismissed for corruption or disloyalty to the State shall be conclusive proof that he is not disqualified under that clause."

Mr. Deputy Speaker: Amendments moved.

12-00 NOON.

Mr. Deputy Speaker: Are there any amendments ?

Prof. K. T. Shah: I have an amendment in consolidated list No.1 .....

Mr. Deputy Speaker: But it seems to be an amendment to old clause 7 ?

Prof. K. T. Shah: That is our difficulty. This new clause has been suddenly put forward. If you do not allow us to move our amendments and at least try to bring out the new ideas that are there .....

Mr. Deputy Speaker: I understand the difficulty of hon. Members. The notice of the new amendment proposing substitution of old clause 7 seems to have been circulated only last night or this morning. That has to be remembered. So. we shall take up clause 7 at 3-30 P.M. And whenever notices are given they will be cyclostyled and circulated to all hon. Members. Without any formality all amendments may be handed over to the Secretary. We will take them up at 3-30 today.

So clause 7 will stand over. What other clause shall we take up now ?

Dr. Ambedkar: Sir, I want to add a new clause 166A.

Mr. Deputy Speaker: Clause 7 has been held over. Let us proceed in order. The other ones that are standing over are clauses 122, 123 and 124. I do not know when they will be ready—it depends upon how soon the draftsmen will be ready. If they are ready this afternoon we will take them up.

Shri Kamath: There is a lot of last skipping. Sir.

Mr. Deputy Speaker: We will not skip over—of course whenever a clause is not ready we will skip it over.

New Clause 166A

Dr. Ambedkar: We shall take up clause 166A. My amendment is No. 8 in supplementary list No. 7 to consolidated list No. 2. But I have to make one or two verbal changes in that amendment. In line 9 of sub-section (1), instead of "nomination as a candidate". I want to put it as "nomination as such candidate", thereby substituting "such" for "a". Then in sub-section (*2*) I want to renumber (a) and (b) as (b) and (c) and I want to add a new part (a) which will read as follows:

> "(a) "Candidate" has the same meaning as in section 78."

I want to move the amendment, as modified above. I beg to move:

In Part X after clause 156, insert the following clause:

"166A. *Special provisions with respect to Rulers of former Indian States* —(1) If the Ruler of a former Indian State is nominated as a candidate for any election under this Act, the provisions of sub-section (i) of section 87B of the Code of Civil Procedure, 1908 (Act V of 1908) and of sub-section (*2*) and (*3*) of section 197A of the Code of Criminal Procedure, 1898 (Act V of 1898), shall not apply in relation to such Ruler during the period commencing on the date of his nomination as such candidate and ending on the date on which the result of the election is published under section 66, and shall not apply thereafter in relation to any proceedings for questioning the validity or regularity of such election under Part VI of this Act or in relation to any criminal proceedings against such Ruler for any offence under Chapter IX-A of the Indian Penal Code or Chapter III of Part VII of this Act alleged to have been committed by him at or in connection with such election.

(2) In this section—

(a) "Candidate" has the same meaning as in section 78;

(b) "former Indian State " means any such Indian State as the Central Government may, by notification in the *Official Gazette,* specify for the purposes of this section.

(c) "Ruler", in relation to a former Indian State, means the person who for the time being is recognised by the President as the Ruler of that State for the purposes of the Constitution."

Mr. Deputy Speaker: Amendment of Dr. Ambedkar moved.

Prof. K. T. Shah: Sir, we cannot follow the amendment. Will you please give us some explanation ? Are the Rulers also going to be candidates and will they be exempt from the Criminal Procedure Code ?

Dr. Ambedkar: The position is this. As the House will remember, when the report of the Select Committee was discussed, it was suggested that the ruling princes should be disqualified from being members of a legislature. Various grounds were urged. One of them was that they were holding a sort of office of profit under the Government of India by virtue of the engagements that they had with the Government of India and under which the Government of India had agreed to give them certain sums annually. I then said that it did not appear to me that this was an office of profit and therefore, it could not come under the provisions of the article in the Constitution which deals with the holders of offices of profit. I also said at the time when the matter was discussed that

I did not find any valid justification as to why a ruling *prince,* qua a ruling prince, should be disqualified from being a member of a legislature. Subsequently it was urged that these ruling princes had been given certain protection under 'the Criminal Procedure Code and the Civil Procedure Code, by virtue of which it was not possible for a person to file a criminal complaint against them or to file a civil suit without the previous sanction of the Government of India. On this ground it was said that if this protection extended to the period intervening between the nomination and the polling, a Prince may commit any offence or he may commit any corrupt practice or illegal practice and it would not be possible for any individual to bring him to book, because the permission of the Government of India was necessary. I felt that this was a legitimate complaint—that if a Prince wanted to stand for election he should not be permitted to claim the protection, that has been given to him by the provisions in the Criminal Procedure Code and the Civil Procedure Code.

Therefore, what is proposed in this amendment is this that if a Prince stands as a candidate for an election, whether it is an election from a Parliamentary constituency or an election to the State Legislative Assembly, he shall automatically cease to obtain the benefits conferred upon him by the provisions contained in the Criminal Procedure Code and the Civil Procedure Code so that he may be prosecuted for an offence without the sanction of the Government of India. An election petition may be lodged against him without the consent of the Government of India and any other proceedings may be taken against him as though he was a common citizen having no special privileges. This, I think, is a *via media* between the old provision in the Select Committee's Report that they should be qualified to stand for election and be Members of Parliament without abrogation of the privileges that were given to them under the Civil and Criminal Procedure Codes and the other position taken by other Members of the House that they should be straightway disqualified from standing for election.

I hope the House will accept this amendment, because it strikes a middle path.

Moulvi Wajed Ali (Assam)**:** May I put one question to the Hon. the Law Minister ? If the candidate fails to be elected or for some reason or other does not stand for election will the exemptions stand or will they be revived ?

Dr. Ambedkar: The suspension of the protection will operate only during the period of the nomination and the ending of the election.

Dr. Pattabhi (Madras)**:** Will he have to face all the natural consequences of the election ?

Dr. Ambedkar: He will be subject to all the consequences of the election.

Prof. K. T. Shah : May I enquire if the House is committed to the principle that the Princes may be allowed to stand for election ?

Mr. Deputy Speaker: There is no restriction in the Bill as it emerged from the Select Committee—there is no prohibition prohibiting a Prince from standing as a candidate either in the Constitution or in the Bill as it emerged from the Select Committee. Hon. Member ought to put the question the other way.

The motion was adopted New Clause 166A was added to the Bill.

Clause 167.—(*Power to make rules*)

***Dr. Ambedkar:** I beg to move :

After part (c) of sub-clause (2) of clause 167, insert the following:

"(cc) the manner in which votes are to be given by a presiding officer, polling officer, polling agent or any other person, who being an elector for a constituency is authorised or appointed for duty at a polling station at which he is not entitled to vote."

Mr. Deputy Speaker : Amendment moved.

Mr. Deputy Speaker : The effect of the amendment will be, the rules may provide for regulating the manner in which a candidate or the election agent or other agent of a candidate in which he is not a voter can vote.

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*P. D., Vol. 12, Part II, 28th May 1951, pp. 9498-9501.

Shri J. R. Kapoor (Uttar Pradesh)**:** That will not solve the difficulty, because the candidate may be a voter in a particular constituency, but the constituency is such a wide one that at the particular time that he has to record his vote, he may not be at the particular polling station within the area in which his vote has to be recorded.

Mr. Deputy Speaker: The constituency is there. There are a number of polling stations in a constituency. After all, there may be two or three divisions in a constituency. He will be in some polling station. Is it necessary to provide for all this ?

Pandit Thakur Das Bhargava: So that, he may be allowed to vote in any of the polling stations where he happens to be at that time. He may be in the constituency, but not in the particular polling station. The constituency may extend to a whole district. He will be in one polling station. He should be allowed to vote at the polling station where he happens to be at that time.

Dr. Ambedkar: There are two questions to be considered with regard to candidates. One question is that a candidate belongs to another province altogether. His constituency is not in the State in which he stands. That is one question. The other question is this. In a constituency, there are various polling stations. He is residing in the area of a particular polling station, he is supposed to go and vote. That is the logical consequence. Suppose in his daily peregrinations on the election day, he is not anywhere near the particular polling station or the polling booth, but somewhere else.

Mr. Deputy Speaker: The Law Minister may kindly consider whether the words candidate or his agent may not be included in the clause (ee) which he has proposed.

Dr. Ambedkar: I am coming to that. What I suggest is this. As I said, there are two cases which have to be provided for. Prof. Shibban Lal Saksena is providing only for the case of a candidate who is coming from another province. The other case still remains unprovided.

Mr. Deputy Speaker: That can be included here "the manner in which votes are to be given by a presiding officer, polling officer, polling agent or a candidate or his agents etc."

Dr. Ambedkar: The clause refers to presiding officer, polling officer, polling agent or any other person who being an elector for a constituency is authorised or appointed for duty at a polling station at which he is not entitled to vote. It does not include the two categories of candidates. Therefore, one has to make provision for both categories.

Mr. Deputy Speaker: You may include them.

Dr. Ambedkar: Probably, the better course would be to reconsider the amendment. We can take it up at 3 o'clock so that we can have a proper amendment.

Pandit Thakur Das Bhargava: Include candidate and his election agent.

Shri Hussain Imam: I suggested in the morning that Government servants who are transferred from one place to another should be given facilities for recording their vote. This may be included in the rule making power of Government. I may remind the Hon. Minister that proper facilities should be extended to government servants and those engaged in local self-government and public utility services who have been transferred from one place to another after enrolment.

Shri Kamath: Sir, I have two amendments.

Mr. Deputy Speaker: I am coming to them. Let me put Prof. Saksena's amendment to the House.

Dr. Ambedkar: I am thinking that perhaps if it is put in a proper form I may be in a position to accept it. So we may hold it over to 3 o'clock. In the meantime we may be able to find some suitable language.

Mr. Deputy Speaker: The remaining amendments also may be handed over to Dr. Ambedkar.

Shri Kamath: I beg to move:

> After part (g) of sub-clause (2) of clause 167, insert the following new part and re-letter the subsequent part accordingly:
>
> "(h) the maximum scales of expenses at elections- and the numbers and descriptions of persons who may be employed for payment in connection with elections."

Mr. Deputy Speaker: In the section relating to expenses, we have already provided for this. We have it stated that the maximum scales and election expenses shall be as may be prescribed, and any other matter required will be prescribed. Since that is already there, is it necessary to have this amendment now ? I think it is unnecessary.

Shri Kamath: All right Sir. But I have another. I beg to move:

> After sub-clause (2) of clause 167, insert the following new sub-clause :
>
> "(3) The rules so made shall be laid before Parliament as soon as may be after they are made and shall be notified in the *Official Gazette* with such modifications as may be made therein by Parliament within a period of ten days after they are so laid."

Shall I speak on it, or is to be held over till 3 o'clock ?

Dr. Ambedkar: He may speak now, but the voting may be held over.

Clause 7

***Shri R. K. Chaudhuri:** I have only one amendment unlike other Members who had several amendments to place before the House. My amendment is No. 201 in the Revised Consolidated list on page 20. I beg to move:

> To clause 7, add the following explanation :
>
> "*Explanation.*—A lawyer who renders professional services to Government or any department thereof and who is paid by retaining fees and other fees shall not be deemed to be holding an office of profit and shall not be disqualified to be chosen as a member of either House of Parliament or Legislative Assembly or Legislative Council of a State."

This is the only amendment that I have and I shall deal with it with all the firmness that it deserves and I hope the Hon. Law Minister will also be so pleased as to give some attention to what I say on this occasion.

Dr. Ambedkar: I always do. I think.

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*P. D., Vol. 12; Part II, 28th May 1951, p. 9549.

***Mr. Chairman :** Amendment moved :

In part (f) of sub-clause (1) of clause 7, for the words "five years" substitute the words "three years".

Dr. Ambedkar : I could have adopted the same procedure which I had adopted with regard to most of the amendments, namely, to stand up and say that I do not propose to accept these amendments. In this case it seems somewhat necessary to make an exception, because some questions have been raised which I think call for some explanation.

In the first place, I would like to give a reply to my hon. Friend there who said that the House has been taken by surprise at the fag end of the debate on this Bill by bringing in clause 7 at this time. It is quite true that clause 7 is brought before the House in a formal way only today. But I think my Friend will agree that there is no clause in this Bill to which the House as a whole, although informally, has devoted such a large part of its attention as clause 7.

Dr. S. P. Mookerjee (West Bengal)**:** Most important clause.

Dr. Ambedkar: I cannot remember the number of meetings that were held of the Select Committee, of the larger Committee that was appointed, and also of the Committee of the whole House. I do not therefore think that there is any ground for the complaint that sufficient attention has not been paid to the provisions of clause 7. I think the clause has undergone a great deal of examination both from the point of view of propriety and from the point of view of meeting practical difficulties.

Now, Sir, I will take some of the individual points that were made by various speakers. I will not devote any attention, to what my Friend Mr. Kamath said, and I do not think that he expects much attention being paid to his suggestion for provision being made for shutting out the deaf and the dumb.

Shri Kamath : It exists in England.

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*P. D., Vol. 12, Part II, 28th May 1951, pp. 9564-70.

Dr. Ambedkar: It is true that it exists in England but I think we can very safely leave it to our electorate to see that this Parliament is not constituted of the deaf, the dumb and the maimed and that we have people here who are physically fit to hear, to speak and to move about.

Some Members have said that we have not included in our disqualification clause persons like blackmarketers and so on. I think that was a point made by Prof. K. T. Shah. With regard to that all that I would like to say is that in making a law it is not enough to pursue an ideal: It is very necessary to see that the ideal must be a practical one. And I do not think that my Friend Prof. K. T. Shah has applied his mind to the practical side of giving effect to some of the idealistic theories that he has propounded with regard to this clause.

Another point was with regard to disqualifications arising out of offences and sentences passed for certain crimes. With regard to that it is possible to take three different positions. One position is this that punishment for a crime is enough of a punishment and that it should not involve any further disqualification for standing as a Member for Parliament. I think that is one view which can be taken. The other view that can be taken is this that we should have a disqualification attached not to the punishment but to the nature of the offence, whether it involves moral turpitude or does not involve moral turpitude. That is the second view that one can take. The third view is the view that is taken in this Bill. This view has been adopted in this country ever since elections began. I do not know of any period when we had a provision in our law saying that although a man has committed an offence and has been sentenced to imprisonment for a certain period he shall not incur any disqualification.

Right or wrong, that is the law that we have adopted throughout. Consequently there has been no departure so far as this Bill is concerned. We are not introducing anything that is new. We are merely adopting what has already been in existence.

Sardar Sochet Singh: What about heavy fines such as Rs. 50,000?

Dr. Deshmukh: May I know, Sir, under what provision so many of the Congress people who went to jail and were convicted were able to stand and how their disqualification was removed ?

Dr. Ambedkar: The disqualification was removed by the Governor-General. In some cases the time expired and in some cases he was empowered to issue an order to remove the disqualification. That is the second point. With regard to the other points that have been raised about public company directors, etc. I think it is unnecessary for me to defend the clause as it stands. All those points were raised at the various meetings where these questions were considered and ultimately the Committee came to the conclusion that the clause should stand as it has emerged from the midst of that Committee, and I, therefore, do not propose to go at any length with regard to the question.

Shri Sondhi: Co-operative Society.

Dr. Ambedkar: I am coming to that.

Shri J. R. Kapoor: There was no definite decision in the informal meeting with regard to .....

Dr. Ambedkar: I do not propose to go into the details of what happened at the informal meeting, because we are not supposed to disclose what happened there.

Shri J. R. Kapoor: The quantum of financial interest in a limited company .....

Dr. Ambedkar: Ultimately, as I said, this is how the clause emerged. With regard to the question of co-operative societies, I do not wish to commit myself nor should I be understood to have enunciated a legal proposition to which I would be bound for all times; but it does seem to me that a co-operative society is incorporated under a separate law and, therefore, as we are referring to a public company incorporated under the Indian Companies Act, 'co-operative societies' in my present judgment would appear to be excluded.

Now, I come to the question about the lawyers. I do not know whether my Friend, Mr. Chaudhuri has gone (*An hon. Member:* He is here). There are two different questions that have been put. The question that has been put by Mr. Chaudhuri is this: There are many people, lawyers, I mean, who are engaged by the various Governments to be their Government pleaders ; either they are paid a salary or they are paid a retainer and for every case that they do, they are paid a certain amount of money according to rates prescribed. He wants that a Government Pleader who has been engaged by a Government as its lawyer should not be disqualified from being a Member of the Legislature. As one of our friends here has referred to the matter, a lawyer who is a Government Pleader has been held long long before to be a person holding an office of profit. That seems to me to conclude the matter and if we wish, notwithstanding the provisions contained in Article 102 of the Constitution, to remove the disqualification, then there must be some good ground for saying that a Government pleader may be excluded. I do not think that my hon. Friend, Mr. Rohini Kumar Chaudhuri has adduced any argument. He has only appealed, I believe, to my sympathy and to my professional interest in the lawyers (Interruption). Well I am not going to commit any kind of indiscretion or illegality for the purpose of helping my own profession.

The other question that was raised was by my hon. Friend, Mr. Khandubhai Desai. His complaint has taken me by surprise, I must say. His complaint was that there were many lawyer Members of Parliament who appear before the different members of Government for their clients and charge fees, and that that also happens in the local legislatures. I say I am completely surprised at it because a lawyer has the right to practice in a court of law and I do not know whether there is any law which says that a Minister in the administration of a department is a court. Therefore, a lawyer cannot insist upon exercising the constitutional right that has been given to him to practice his profession, to go before a Minister and obtain a hearing. If any Ministers in the Government of India—they will forgive me—are permitting

lawyers to appear before them, it seems to me that they are acting contrary to the provisions of law. If our Ministers were to observe the common rule that they are not courts and therefore they will not hear any lawyer, I think the practice which has been referred *to* by my hon. friend Mr. Khandubhai Desai will completely disappear.

Mr. Chairman: Is there any such practice ?

The Prime Minister (Shri Jawaharlal Nehru): I have never heard of this practice or of any instance. I would like it to be stated where this has taken place and when.

Dr. Ambedkar: I do not know. That is what Mr. Khandubhai Desai has said.

The Minister of Works, Production and Supply (Shri Gadgil): On the other hand, the complaint has been that some of us have refused audience to lawyers.

Dr. Ambedkar: That is the proper thing.

Shri Hussain Imam: Have any lawyer Member of Parliament been refused audience by the Hon. Ministers ?

Shri Jawaharlal Nehru : So far as I know, there has been no case of lawyers appearing before the Ministers as lawyers.

Dr. Ambedkar: I do not know what that is : but this is what he said. I think that matter can be regulated in the manner I have suggested. Therefore, no legal provision of that sort is necessary.

I now come to the amendment moved by my hon. Friend Pandit Kunzru. He wants to drop the words "disloyalty to the State". To some extent, I accept his argument that the wording "disloyalty to the State" is not a very precise phrase. What does it mean ? It has nowhere been defined. But the point is this. When the Select Committee discussed this matter, they were considering two different categories of servants of the State. One was the personnel of the civil services ; they were also considering the army personnel. In

their judgment it was possible for an army officer to do an act which may undermine the security of the State, or may prove to be an act of disloyalty to the State and he may have been dismissed on that account. They did not want to confine the restriction to corruption of civil servants. They also wanted to extend the same provisions to any act done by a military officer. I admit that it has not been possible to use a precise phrase. But I would like to say this that there is sufficient protection in one part of clause 7, where the question whether one has been in fact dismissed for corrupt practices or for disloyalty has been left to be decided by the Election Commission. I should submit that if the Election Commissioner is an independent officer and we have every hope and right to believe that he shall be an independent officer—I think in sub-clause (3) there is enough protection against any kind of misuse of the provisions contained in the earlier part of clause 7.

I do not think that there is any point which was made by any hon. Member which calls for explanation and with which I have not dealt in the course of my reply.

Shri Kamath: I must bring to your notice Sir, a slight lapse on the part of Dr. Ambedkar whereby he transformed Mr. Chaudhuri into a woman by calling him Rohini, the name of a woman. I hope the name will be correctly put in the official reports. Rohitkumar is a man's name.

Mr. Chairman: Order, order.

Mr. Kamath: This is a serious matter, Sir.

Dr. Ambedkar: What did I say ?

Mr. Kamath: You said, Rohini.

Dr. Ambedkar: That is the name by which I call him.

Mr. Kamath : He is Mr. Rohini Kumar Chaudhuri and not Rohini.

Dr. Ambedkar: I do not think he has misunderstood me.

Shri R. K. Chaudhuri: No.

Dr. Ambedkar: He would refuse to misunderstand. I am sure.

Ch. Ranbir Singh : In view of the fact that the Hon. Minister for Law has just expressed that co-operative societies may not be covered by the Public Companies Act, and as far as my information goes, I am definite that cooperative societies are registered under a different Act, may I know whether the shareholders of co-operative societies which hold contracts under any Government will be disqualified for contesting the elections or not ?

Several hon. Members: Not disqualified.

Mr. Chairman: I would like to know from the hon. Members who have moved amendments if any of them want to withdraw their amendments or they want me to put them to the House.

Shri Syamnandan Sahaya: Sir, the matter of co-operative societies requires a little clarification. Dr. Ambedkar says that co-operative societies were not excluded. What is the meaning of the word 'exclusion' ; we do not understand. Will the director of.....

Dr. Ambedkar: There is no disqualification. None of the ' disqualifications would apply to them.

Shri Syamnandan Sahaya: I beg for leave to withdraw the amendments.

Amendments were by leave withdrawn.

***Clause 9.** (*Disqualification for membership of electoral colleges.*)

Amendment made:

In clause 9, for the words "subject to any disqualification for membership of Parliament under any of the provisions of this Act" substitute the following:

"disqualified for being chosen as a member of either House of Parliament under any of the provisions of article 102."

—[*Dr. Ambedkar*]

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*P. D., Vol. 12, Part II, 28th May 1951, pp. 9578-80.

Mr. Chairman: The question is:

"That clause 9, as amended, stand part of the Bill."

The motion was adopted.

Clause 9 as amended, was added to the Bill.

Clause 122. (*Major corrupt practices*)

Dr. Ambedkar: I beg to move:

(i) In part (a) (i) of the proviso to sub-clause (2) of clause 122, after the words "injury of any kind", insert the words "including social ostracism and ex-communication or expulsion from any caste or community".

(ii) For sub-clause (6) of clause 122, substitute the following sub-clause :

"(6) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the connivance of a candidate or his agent for the conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided under section 23 or a place fixed under sub-section (*1*) of section 27 for the poll:

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purposes of conveying him or them to or from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is not propelled by mechanical power: Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise."

Mr. Chairman: Amendments moved.

Dr. Ambedkar: I also beg to move:

(iii) For the Explanation to part (8) of clause 122, substitute the following:

"Explanation.—For the purposes of this clause—

(a) a person serving under the Government of India shall not include any person who has been declared by the Central Government to be a person to whom the provisions of this clause shall not apply;

(b) a person serving under the Government of any State shall include a patwari, chaukidar, dafedar, lambardar, zaiidar, shanbagh, karnam, talati, talari, patil, village munsif, village headman or any-other village officer, by whatever name he is called, employed in that State whether the office he holds is a whole-time office or not, but shall not include any person (other than any such village officer as aforesaid) who has been declared by the State Government to be a person to whom the provisions of this clause shall not apply."

Mr. Chairman: Amendment moved :

These are all agreed amendments

*** Mr. Chairman :** Amendment moved :

In the amendment proposed by Dr. Ambedkar, in part (b) of the proposed Explanation to part 8 of clause 122, omit the words "Patil, village headman or any other village officer".

Shri Kamath : I have got amendments in supplementary list No. 3 to Consolidated List No. 2. I have got several amendments there but I will move only one of them. In Supplementary list No. 6 to Consolidated List No. 2 also I am moving only one of my amendments. And in supplementary list No. 6 to Consolidated List No. 2 also I have several amendments, but I am moving only one. I am not moving the rest. That is to say. I shall move amendment No. 5 in supplementary list No. 3 to Consolidated List No. 2, amendment No. 3 in supplementary list No. 4 to Consolidated List No. 2, and amendment No. 2 in supplementary list No. 6 to Consolidated List No. 2.

I will take No. 6 in supplementary list No. 3 first. I beg to move :

(i) In part (a) (ii) of the Proviso to part (2) of clause 122, for the words "an object of divine displeasure or spiritual censure", substitute the words "a victim of a divine curse'.

Dr. Ambedkar: I do not understand the difference between the two.

Shri Kamath: Now, Sir, I would like to point out that this apparently has been taken from the English law on the subject and also perhaps from the Indian Penal Code which

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*P. D., Vol. 12, Part II, 28th May 1951, pp. 9582-83.

also borrowed it originally from English law. But in the English law the words used are "spiritual undue influence", and there it is clear because in Christian religion the words "spiritual censure" or "spiritual injury" have got a definite connotation. With regard to this "spiritual undue influence" it was held in England—where certain Roman Catholic priests exercised their religious influence on voters in a manner inconsistent with their religious duties as minister of religion—it was held to be "undue influence". "A priest may counsel, advise, recommend and point out the true line of moral duty and give the opinion about the candidate, but he may not appeal to superstition of the people he approaches." Now, Sir, India. I am not quite sure in my own mind .....

8-00 P.M.

Shri Jawaharlal Nehru: I do not wish to interrupt, but I am total unable to follow what is happening in this House. I do not understand the relevance.

Shri Kamath: That is due to the time. I suppose. The Prime Minister is tired.

Shri Jawaharlal Nehru: May I just point out that I should like to understand, and I am not supposed to be unintelligent.

Shri Kamath: Nobody dare say so.

***Shri Sarangdhar Das:** The next amendment I have given notice of is to delete the proviso. I beg to move:

Omit the proviso to part (6) of clause 122.

I had given notice of this amendment to delete the proviso in the Bill saying:

> "Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint, costs for the purpose of conveying him or them to or from the polling station shall not be deemed to be a corrupt practice under this clause."

This proviso is right under sub-clause (6) of clause 122.

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*P. D., Vol. 12, Part II, 28th May 1951, pp. 9590-91.

Shri Santhanam : His point is met by Dr. Ambedkar's new amendment because all mechanically-propelled vehicles have been excluded from this proviso. Therefore, a substantial part of his point has been met already.

Shri Sarangdhar Das: I do not agree. If my amendments are accepted then all the involvements in the Law Minister's amendment should go. Motor transport should be entirely banned. That is my amendment to the Bill as amended by the Select Committee. It is a very radical amendment.

Sir, I commend my amendment to the House.

Dr. Ambedkar: I do not accept it, Sir.

The motion was negatived.

***Ch. Ranbir Singh:** I beg to move:

In the Explanation to part (8) of clause 122, omit the words "chaukidar, dafedar, lambardar, zaildar".

Dr. Ambedkar: I do not accept the amendment.

Shri Satish Chandra (Uttar Pradesh)**:** I support the previous three speakers. I myself happen to be a lambardar. I have about ten villages in my zamindari and for each of them I am supposed to be the lambardar. Fortunately there is no co-sharer in most of them. I may be the owner of the entire village, but because I pay the land revenue to the Government I am called a lambardar according to Government revenue terminology. I have never imagined in my life that I am a Government servant or that I am in any official capacity connected with Government. Anybody who has to deposit land-revenue in the government treasury is known as lambardar in Uttar Pradesh. I do not know what is the system in other States. But in Uttar Pradesh any person who deposits land revenue in the government treasury either solely on his own

*P. D., Vol. 12, Part II, 28th May 1951, pp. 9592-95.

behalf or on behalf of his co-sharers in the village is known as lambardar. I do not know, in what sense exactly this word is inserted here. But if the word lambardar here means a zamindar who is responsible for the payment of land-revenue in Uttar Pradesh or elsewhere, it must be omitted.

Dr. Ambedkar: I would like to say a word about this. I do not quite understand why my friend Pandit Kunzru got into temper over this. He was a Member of the Select Committee. This clause was introduced by the Select Committee. It was a unanimous clause. All the Members of the Committee represented their different States. I can speak with authority, say, for instance, about Bombay or about Madhya Pradesh. I cannot speak with authority with regard to the other States. These names and categories of people were introduced by the Select Committee, by Members from the different States who knew what they were talking about. At any rate I take it that they knew what they were talking about. I did not include it on my own responsibility and I do not know how he charges me with the sort of thing about which he gave an utterance. (*Interruption.*) I have not done it. It was done by the Select Committee. The Punjab Members, the U.P. Members, they were all present and they said that lambardar should be included. I never included the lambardar on my own. But if the view of the House is that the lambardar is in no sense an official, I am quite prepared to omit it. But they must take the responsibility. I cannot take the responsibility. I have not examined the revenue laws of different States to find out if the lambardar is an official or not. If the view of gentlemen here who can speak with authority about their States is that lambardar is not an official. I have no objection to omit it. I have no interest in this.

Shri Jawaharlal Nehru: My hon. Colleague has more or less explained the position. We are not wedded to this long list of appellations half of which I have never heard of in my life. These were given by the Select Committee and they were adopted. We are perfectly prepared now or at the third reading

to go through the list very carefully in consultation with Members and to take' out such of them as ought not to be there.

Shri Bhatt: 'Patil' stands in a similar position.

Dr. Ambedkar: It will be possible to find out from the various States whether any of them are Government officials. But with regard to Patil I can say that I know it—and nobody knows more about Patils than I do.

Dr. Deshmukh : You do not know about Madhya Pradesh.

Dr. Ambedkar: I know about Madhya Pradesh also.

Some hon. Members : rose—

Mr. Speaker: We are now prolonging discussion of a point which deserves consideration but which can be disposed of by mutual goodwill and compromise in no time. What I would suggest therefore, to the Law Minister, if the House agrees and he agrees, is that we cannot settle just at the moment as to whether the lambardar should be taken out or the Patil should be taken out or other persons should be taken out. After all, as the hon. the Leader of the House has stated, these are various appellations by which these people are known. Members may informally discuss the matter. It is more or less a matter of form really and it may be taken up after two or three days when we take the Bill for third reading.

Dr. Ambedkar: It can be reserved till then.

Mr. Speaker : It need not even be reserved for that purpose. They can pass this clause. They are only formal matters and not matters of substance, the substantial thing being that, a government official holding an office of profit should not be there. I do not think we need take time over these things.

Dr. Ambedkar: What interest have I against the lambardar ? I am not a lambardar.

Mr. Speaker: Order, order.

Dr. Ambedkar: I am an inferior village officer, if you want to call me under the Watan Act in Bombay.

Dr. Deshmukh: On a point of order, may I know what will happen now because you hurriedly put my amendment to vote and it was rejected by the House. Now that better sense is dawning on the House and everybody. I am grateful for the speech of my hon. Friend .....

Mr. Speaker: The hon. Member is spoiling his own case by saying that better sense is prevailing in the House. That is not the way of compromise, of a peaceful settlement of affairs.

***Clause 123.**—(*Minor Corrupt Practices*)

Amendment made:

For sub-clause (5) of clause 123, substitute the following:

"(5) The systematic appeal to vote or refrain from voting on grounds of caste, race, community or religion or the use of, or appeal to, religious and national symbols, such as, the national flag and the national emblem, for furtherance of the prospects of a candidate's election."

Mr. Speaker: There is no other amendment, I think.

Shri Kamath: I have two amendments. Nos. 5 and 6 in Supplementary List No. 4 to Consolidated List No. 2. I am moving No. 5 only.

The motion was adopted.

I wish the draftsman would pay some attention to this to see whether it could not be modified so as to bring into within its purview, any person besides a candidate or his agent.

Dr. Ambedkar: I shall look that matter up.

Shri Kamath: If the draftsman will look into it, I would not press it.

Mr. Speaker: He may look into it. The motion was adopted.

Clause 123.—As amended was added to the Bill.

***Clause 124.**—(*Illegal practices*)

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*P. D., Vol. 12, Part II, 28th May 1951, p. 9598

*P. D., Vol. 12, Part II, 28th May 1951, pp. 9599-9606.

Dr. Ambedkar: I beg to move :

To sub-clause (1) of clause 124, add the following:

"*Explanation*.—Any such expenses as aforesaid incurred or authorised by any institution or organisation for the furtherance of the prospects of the election of a candidate supported by such institution or organisation shall not be deemed to be expenses incurred or authorised within the meaning of this clause."

Mr. Speaker: Amendment moved.

Shri Kamath: I beg to move:

In part (2) of clause 124, omit the words "of any building".

I raised this point to the Select Comittee, but it was not considered at any length and not much attention was paid to it. I would state my difficulty precisely and briefly. I know of some buildings in Madhya Pradesh where the lower floor is converted into a wine or liquor shop and the upper floor has been leased out to certain persons or to students or to other people for different purposes. Can a meeting be held on the top floor of the building ?

Dr. Ambedkar: There is no such fear at all.

Shri Kamath: But it is open to doubt and I would like the Hon. Minister to omit the words "of any building" and thus avoid difficulties which it may be difficult to solve. The wording may be reconsidered so that the matter may be placed beyond the shadow of a doubt.

Mr. Speaker: Amendment moved :

In part (2) of clause 124, omit the words "of any building".

Pandit Kunzru wanted to sav something ?

Pandit Kunzru: I was going to submit that the amendment proposed by Dr. Ambedkar is a very serious character and we ought to be given, in fairness time to consider it fully and to propose amendments to it. A mere perusal of the amendment shows that it will have a vital effect on many provisions of the Bill, and will seriously alter the balance between candidates of different parties. I suggest, therefore that we should be given time to consider this amendment. This is the only clause after all, that has not been passed and nothing will be lost and everything will be gained. I think,

if we are given more time to consider it and propose amendments to this provision.

Dr. Ambedkar: The position is quite clear. There is nothing which need give rise to any doubt. As a matter of fact, some people had doubts as to what kinds of expenditure may be included in the election expenses and it is this sort of provision that I was able to think of in order to remove their doubts. If my friend has any other suggestion to make, I would like to hear.

Mr. Speaker: What about Shri Kamath's amendment ?

Dr. Ambedkar: About the words "of any building" there need be no doubt. The words need not be omitted. There is no doubt about the matter at all.

Shri Kamath: This point was not discussed fully and it was added only at the last moment.

Shri R. K. Chaudhuri: Sir, I have to move my amendment No. 153 for dropping sub-clause (3) of clause 124.

Mr. Speaker: He may move it.

Shri Santhanam: It may be put separately. Part 3 may be put separately instead of moving it and making a speech.

Dr. Ambedkar: My amendment may be put.

Mr. Speaker: At the time of voting I shall see to it.

Shri R. K. Chaudhuri: I beg to move:

"Omit part 3 of clause 124."

My object in doing so is that issuing of any circular, placard or poster having a reference to election which does not bear on it the names and address of the publisher and printer is an illegal practice.

Mr. Speaker: If I mistake not, such provisions do occur in the election rules even to-day.

Dr. Ambedkar: Yes, there is nothing new.

Shri R. K. Chaudhuri: This entails a very serious consequences. If it will not do any harm to anybody, it should

not be an illegal practice. There is sufficient punishment awarded there but why should an innocent candidate be penalized, if some persons without his knowledge publish a circular saying 'vote for so and so' on the day of election and that would entail in the election being invalidated and his being punished with disqualification.

Pandit Thakur Das Bhargava: I wish to say that I do not think that we are in a position to delete this clause but all the same there is great force in the argument advanced by my friend Mr. R. K. Chaudhuri that if a person does this sort of thing, it should not affect the candidate unless the candidate has knowledge of it or he is conniving at it. It would be better to make it illegal under section 124.

In regard to section 99, this should not have any effect on the candidate. This was the general view in the meeting wherein this question was considered. I would therefore request that section 99 should be open for consideration later.

Dr. Ambedkar: That may be considered.

Mr. Speaker: That means this clause may be put as it is.

Pandit Kunzru: I strongly appose the amendment put forward by Dr. Ambedkar. You will see from the amendment that proposes is not that a party would carry on general propaganda in favour of its candidate. But that a party should be free to do what it can in support of particular candidates. That a party should in a general way, support its own candidates is recognised everywhere but that it should support particular candidates and that the expenditure incurred by it not on carrying on general election propaganda but in support of a particular candidate should not be shown in the return of the election expenses of that candidate raises a very important issue. In England too the rights of the various parties to incur expenses in connection with their propaganda is recognised. But the expenditure incurred in support of any particular candidate is according to the exposition of Dr. Ambedkar, to be shown in the return of the election expenses of that candidate. Is there any reason why we should follow a separate practice

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here ? It is obvious that it will give rise to graft and that it affects vitally many provisions of this Bill. That is why I ask, Sir, that the debate on this clause should be postponed so that we should be given more time to examine it and to put forward any amendments that we might think would secure the desired result without leading to a highly undesirable situation.

Mr. Speaker: Does the Hon. Minister want to say anything ?

Dr. Ambedkar: I have nothing to add to what I have said.

Mr. Speaker: Then I will put the amendments to vote. I will first put Mr. Kamath's amendment. The question is:

> In part (2) of clause 124, omit the words "of any building".

The motion was negatived.

Mr. Speaker: Then there is an amendment of Mr. R. K. Chaudhuri for deletion of paragraph 3.

Shri R. K. Chaudhuri: I think that is accepted ?

Dr. Ambedkar: No, no. I do not accept it.

Shri R. K. Chaudhuri: Then I want leave of the House to withdraw it.

Mr. Speaker: I have not placed it before the House, so it falls through. Then I have to put to vote Dr. Ambedkar's amendment. The question is : (as shown on page 618-19).

> To sub-clause (1) of clause 124, add the following:
>
> "*Explanation.*—Any such expenses as aforesaid incurred or authorised by any institution or organisation for the furtherance of the prospects of the election of a candidate supported by such institution or organisation shall not be deemed to be expenses incurrd or authorised within the meaning of this clause.

The motion was adopted.

Mr. Speaker: The question is:

> "That clause 124, as amended, stand part of the Bill."

The motion was adopted.

Clause 124, as amended, was added to the Bill.

Clauses 132, 139 and 150

Mr. Speaker: Then there are clauses 132, 139 and 150. There are no amendments to these, so I will put them together.

The question is:

"That clauses 132, 139 and 150 stand part of the Bill."

The motion was adopted.

Clauses 132, 139 and 150 were added to the Bill.

Clause 167.—(*Power to make rules*)

Mr. Speaker: Now there is the amendment of Dr. Ambedkar to clause 167.

Dr. Ambedkar: I have moved it already. There was no criticism about it and I should like briefly to explain my position with regard to that With regard to this clause two or three questions were raised. One was with regard to an officer who has been transferred from the constituency in which his name had appeared in the register to some other place. The question was: what provision was going to be made for his voting ? The second question was with regard to a candidate who goes from one State to another State for the purpose of seeking election. There also, the same question was raised. Finally, there was the question with regard to a candidate who is moving in his own constituency for the purpose of canvassing and who is not present or who is not likely to be present at the polling booth where he is entitled to vote.

I asked the draftsman; the draftsman thinks that it is unnecessary to make a provision in this particular clause in my amendment because there is ample room in the general provision contained in clause 167 for making rules to cover all these cases. Therefore, it will be possible for the Election Commissioner under the rules to deal with these cases by rules and it is unnecessary to make any amendment here.

Shri Ethirajulu Naidu: I would like to mention clause 59 which deals with this particular matter. Would the Law Minister consider the advisability of making an amendment to clause 59 ? That clause refers to, *"Special Procedure for voting by certain classes of persons."*

Dr. Ambedkar: No, that is a separate clause altogether pertaining to those who are outside the country.

Shri Kamath: A reply is due to the amendment moved by me regarding the rules to be laid before Parliament.

Dr. Ambedkar: With regard to that the position is this. As everybody in the House knows, we are trying to do our level best to have the elections in November-December. Now, if the procedure suggested by my hon. friend Mr. Kamath, that the rules shall be placed on the table of Parliament and that they shall not have operative force and until Parliament has approved them, is adopted, it is quite clear that we may not be able to achieve the purpose we have in view, namely that the elections should take place in November-December. On that ground alone it seems to me rather difficult to accept the amendment that he has moved. But if he would be content with the assurance that Government will place the rules before Parliament, I am prepared to give that undertaking.

Shri Kamath: After they are placed before Parliament, will Parliament be competent to modify them ?

Dr. Ambedkar: I cannot give a categorical answer to that also—I feel some difficulty. It is this. Supposing, for instance, Government does take action under any rules that are framed and subsequently Parliament alters it. Then, what would happen to action already taken under the rules as framed ? Therefore it would be very difficult to tie down the hands of Government by any such condition as Mr. Kamath proposes.

Shri J. R. Kapoor: May I move an amendment to clause 167. I beg to move:

> After part (g) of sub-clause (2) of clause 187, insert the following new part (gg):

Mr. Speaker: Order, order. What is the No. of the amendment.

Shri J. R. Kapoor: I gave notice of it some time back.

Mr. Speaker: I am not waiving any further notice.

Shri J. R. Kapoor: I am inclined to think that this may perhaps be accepted by the Hon. Minister.

Dr. Ambedkar: If it relates to contract, it has already been defined in the Contract Act.

Mr. Speaker: Is Government prepared to accept the amendment ?

Dr. Ambedkar: I cannot accept any amendment now.

Shri Kamath : If my amendment is negatived will it mean that Government will not place the rules before the House ?

Dr. Ambedkar: I have already said that Government will always be prepared to place it before the House.

Shri Kamath: If that assurance is given, I will not press my amendment.

Mr. Speaker: Mr. Kamath wishes to have leave of the House to withdraw his amendment.

The amendment was, by leave, withdrawn.

Mr. Speaker: Now I will put Dr. Ambedkar's amendment. The question is:

> After part (c) of sub-clause (2) of clause 167, insert the following:
>
> "(cc) the manner in which votes are to be given by a presiding officer, polling officer, polling agent or any other person, who being an elector for a constituency is authorised or appointed for duty at a polling station at which he is not entitled to vote ;".

The motion was adopted.

Mr. Speaker: The question is :

> "That clause 167, as amended, stand part of the Bill. The motion was adopted.

Clause 167, as amended, was added to the Bill.

New Clause 34A

***Pandit Thakur Das Bhargava:** I beg to move :

After clause 34, insert the following new clause:

> "34A. (1) Any candidate aggrieved by an order accepting or rejecting the nomination paper of the candidate shall be entitled to file an appeal to the District Judge of the District in whose jurisdiction

*P. D., Vol. 12, Part II, 19th May 1951, pp. 9607-10.

the scrutiny of the nomination papers took place within four days of the passing of the order. The copy of the order shall accompany the petition of appeal if obtained or may be filed before the appeal is heard.

(2) The District Judge shall follow the procedure prescribed for hearing the appeals in the Code of Civil Procedure Act of 1908 and pass his final orders within fifteen days of the date of order cither accepting or rejecting the nomination paper.

(3) The District Judge shall forthwith send a copy of his order to the Returning Officer who shall immediately publish the same as prescribed under section 36.

(4) The decision of the District Judge shall be final and shall not be questioned subsequently by any election petition or otherwise."

In the original Bill this was the proposal of Dr. Ambedkar himself that so far as nomination is concerned it ought to be finalised and no election to petition should be allowed on the basis that at the time of nomination no proper order of acceptance or rejection was made. This is in keeping with the general sense of the House also. All the Members perhaps without exception want this, so that after the polling takes place and a person goes through the election no question may arise when the nomination may again be questioned. Before so many expenses are incurred and everything is gone through we should see that the nomination is finalised. I have therefore given a set of rules under clause 34A whereby the nomination may be finalised and there may be no election petition in regard to the proper acceptance or rejection of a nomination.

Dr. Ambedkar : I am very sorry that I have to oppose this amendment. As my friend, Pandit Bhargava said, it was I who first set in motion the idea of dividing the election into two parts, one relating to nomination and the other relating to actual poll. The Select Committee, however, without considering the matter came to the conclusion that that procedure should not be adopted. They found that there may not be sufficient time for a candidate whose nomination has been challenged on the ground that he is disqualified to produce evidence within the stated time in order to get a decision in his favour. At this very meeting, I think, Members will remember that the Chief Election Commissioner was

present; he was specially called to discuss this matter and he expressed himself opposed to this idea of having the nomination finalized before the election started. Thereafter I have also consulted him and he is absolutely of the opinion that elections would be delayed considerably if this procedure was adopted. Now, we are all agreed that the elections should take place in November-December, no matter what happens, and as the responsibility is cast upon the Election Commission to carry through this programme, it is rather very difficult for me to override the view that the Chief Election Commissioner has taken on that ground. I am sorry to say that I cannot accept the amendment, but I should like to say one thing to the House, namely that this law which we are making is not a law to be for ever. If we are not able to adopt this particular amendment for the present election, there is nothing to prevent us from having it introduced in this Act at a later stage, so that the new procedure may be followed in the next election. This law can be amended, added and substracted from. For the moment in view of the fact that we are all determined to have the elections in November-December, it seems quite impossible to introduce any such measure which may produce a dilatory effect.

Mr. Speaker : Do I put the amendment to the House then ?

Pandit Thakur Das Bhargava: My amendment may be put to the House.

Mr. Speaker: Amendment moved.

The motion was negatived.

Clause 1.—(*Short Title*)

Prof. K. T. Shah: I beg to move:

Re-number clause 1 as sub-clause (1) of that clause and add the following sub-clause as sub-clause (2):

"(2) This Act shall be translated into the principal languages of India as prescribed by the Constitution, and shall be published in every State of the Union in its regional language or languages as well as in the national language of the Union and English, within six weeks of its enactment into law:

Provided that all technical terms as defined or used in this Act shall be in Hindi with English equivalents in brackets in each case and that they shall be the same in all regional languages with their equivalents wherever available in brackets in each regional language.

Dr. Ambedkar: I have great sympathy with this amendment and I have no doubt that the various State Governments will take into consideration the suggestion contained in this amendment. But, I cannot see how I can agree to put it in the statute itself. Therefore, I must oppose it.

Mr. Speaker: The question is "That clause 1 stand part of the Bill".

The motion was adopted

Clause 1 was added to the Bill. The title and enacting formula were added to the Bill.

Mr. Speaker: Now the House will have to adjourn. The House them adjourned till half past 9-00 of the clock on Tuesday, the 29th May 1951.

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704A without number

Dr. Ambedkar on the lawns of Parliament

COURTESY: Shant Swaroop Shant, Delhi

704B without number

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TO
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(35)

PARLIAMENT—PREVENTION OF DISQUALIFICATION BILL

*** The Minister of Law (Dr. Ambedkar):** I beg to move :

> "That the Bill to declare certain offices of profit not to dsqualify their holders for being members of Parliament, be taken into consideration."

Sir, this Bill is really an Act of indemnity for certain persons who, if the Bill was not brought into operation, would become disqualified for being Members of Parliament under the provisions of Article 102 of the Constitution, which says that if any person were to hold an office of profit, he would be disqualified for being a Member of Parliament. Unfortunately it so happened that there are Members of Parliament, who for reasons which I will very briefly refer to did come under the provisions of Article 102. For the reasons which I am going to submit to the House, Government feels that it is only right that the disqualification should be removed by a law made by Parliament.

With regard to the question of the office of profit it is necessary for the House to remember that this provision is a very ancient one and has been imcorporated in the various Acts of the Government of India that have laid down the Constitution of this country. To begin only with the Act of 1935, there existed section 26 which related to matters regarding holders of office of profit under the Government. Since the federal part of the Act of 1935 did not come into operation that section did not apply to the Central Legislature as was then existing, but section 69 which was the corresponding provision in the Provincial part did apply to the Provincial Legislatures.

As the House knows, in 1946 a Constituent Assembly was convened for the purpose of drafting the Constitution. In that

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* P.D., Vol. 14, Part II, 7th August 1951, pp. 34-40.

Constituent Assembly it was necessary to bring together, for the purpose of seeking the best advice possible on the matter of making the Constitution, persons who were qualified to give their advice on such an important matter, and it was felt not desirable to have this limitation being imposed on the membership of the Constituent Assembly, and what happened was that consequently the Government of India Act had to be adapted to make it suitable to the new circumstances, and this provision was dropped from the adapted Government of India Act, 1935. Consequently it was open for any Member to become a Member of the Constituent Assembly and, as the House also knows, as the Constituent Assembly also operated and functioned as the Dominion Legislature it became open for persons, even though they were holding an office of profit, to continue as Members of Parliament.

That being the position what happened was this, that certain Members who were Members of the Constituent Assembly and who on account of the fact that they were Members of the Constituent Assembly were also Members of the Dominition Legislature continued to hold offices of profit without any kind of Constitutional ban being imposed upon them, and once they were holders of offices of profit under the adapted Government of India Act, 1935, they continued to hold those offices even after the Constitution has come into operation on the 26th January 1950. Of course it was possible for Government to inform those Members that now that the law is changed and an office of profit has become a disqualification, it was in their interest to relinquish those offices which put them under this ban. But, obviously, Members of Parliament would realise that that would have created a great deal of administrative difficulty. Members had already taken upon themselves certain responsibilities as members of commissions and members of committees, and to ‘ be told in the midst of their work that they must now quit and the committee or commissions must be so reconstituted that every member of those bodies was free from this ban, would have created a great deal of difficulty from the point of view of administration. Consequently they were permitted to continue to function in their offices notwithstanding the

fact that the ban contained in Article 102 had come into operation. That is one justification why this Bill has been brought in : that if many of those members of committees and commissions had been asked to quit it would have created great administrative difficulty. In view of the fact, therefore, that it was in the interest of the Government to permit these Members to continue in their offices and discharge their functions, it is undoubtedly the obligation of the Government to remove the disqualification which they were in effect induced to incur. That is one reason why this Bill has been brought in.

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A second reason why this Bill has been brought in is because many members who look offices after the 26th January 1950 (when the Constitution came into operation), according to the submissions that they have made were unaware, or rather unconscious that the Constitution did contain such a provision. According to the submissions that they have made it was a case of misunderstanding : they did not realise what exactly was happening. And it seems to me that although there is a general rule of law that ignorance of law is no excuse, in a matter of this kind we must accept the *bona fides* of Members who have submitted that they did not, in fact, know that they were incurring a disability of this sort. If hon. Members were to analyse the categories of persons and offices which have been mentioned in the Bill, they will realise that the Members who are given this indemnity fall in either of the two cateories : one category is of those who were holding the offices long before the Constitution came into existence ; the second category is of those people who believed in a *bona fide* manner that they were not incurring any disqualification under Article 102. That is the basis on which the Bill has been constructed.

I might also inform the House as to the principles on which the Government is acting so far as this Bill is concerned and so far as the general principle of disqualification arising out of an office of profit is concerned. The Government takes the view that it is not desirable to apply the teachnical rule of

English law, namely that if the law has declared that the office is an office of profit, then, irrespective of the question whether the Member draws the salary attached to that office, he should be disqualified. That is the rule under the English Constitution ; certain offices have been declared by law to be offices of profit. There may be a certain Member of Parliament who may accept that particular office and at the same time refuse the profits of that office, but the fact that he has refused the profits of the office does not save him from the rule of office of profit. Government thinks that that is quite an undesirable thing; being purely technical we need not adopt it. What the Government has done with regard to defining what is an office of profit is a very simple thing; they have decided the basis for determining whether any particular office is an office of profit or not. Recently the Finance Department has made rules for the payment to non-Members (that is, persons who are not Members of parliament) for work done on various committees. I do not know whether the hon. Members are aware of, or have seen the notification issued by the Finance Department.

Shri Sidhva (Madhya Pradesh)**:** We are not aware.

Shri Sondhi (Punjab)**:** It has not been circulated.

Dr. Ambedkar: Well, I think they could get that. Anyhow it is a very simple thing. The allowances which are payable under the Notification (or office Memorandum as they call it) of the Finance Department for members who are working on committees and in other offices and are not Members of Parliament, are these :

> Travelling allowance is paid at the rate of 1½ rail fare if he is travelling by rail and 1¼ fare if he is travelling by air.
>
> Then a daily allowance which is paid at the rate of Rs. 12-8-0 per day in Delhi, Rs. 15 in Calcutta and Bombay, the maximum rate being Rs. 20.

Now if there is any Member of Parliament who is appointed to a committee, and if he is not paid more than what is prescribed in the Office Memorandum a summary of which I have just now given to the House, then he will not be

regarded as a member holding an office of profit. There will be no disqualification because he is treated on the same footing as a person who is not a Member of Parliament. But if any person who is a Member of Parliament and who is appointed to any particular committee by the Government, receives something more than what is stated in the Finance Department Memorandum then the question will arise whether that person is holding an office of profit or not.

Shri Sondhi : Supposing he is entitled to more but he does not draw more ?

Dr. Ambedkar: That is a case I am not able to imagine. As I said, the position is this. If a Member of Parliament who is appointed to any committee is paid nothing in excess of what the Finance Ministry has ruled as the rates of payment to non-Members, then there is no case at all for disqualification. Every Member is free to be appointed to any committee that the Government thinks fit. But if anything more is paid, then the question will arise as to whether such a Member is holding an office of profit or not. With regard to such exceptional cases the position which the Government has taken is this, that they will not lay down any general rule but they will consider each case separately as and when it arises. Government may, at the time of making the nomination, state then and there that notwithstanding the fact that the allowances payable are in excess of the rates settled by the Finance Ministry, the Member shall not incur any disability. Or, after several cases have occurred they may generally examine the cases and bring in a Bill of the kind that I have brought in, namely, to exempt certain offices which may under the rules lead to disability.

I think, Sir, that I have given the House all the information that is necessary in order to enable it to appreciate the reasons why Government have thought it fit to bring in this Bill. I think I have also given the basic principles which Government have had in mind in dealing with matters arising out of Article 102.

Mr. Deputy Spaker: Motion moved:

> "That the Bill to declare certain offices of profit not to disqualify their holders for being Members of Parliament, be taken into consideration."

Shri Sidhva: Sir, from the speech of the Hon. Minister in moving this Bill the doubts in the minds of hon. Members have not been removed. Rather, they have increased after the latter portion of his speech. He said that if a Member has drawn more than what the Finance Ministry has settled, it is a case for disqualification. The question may not be serious for Dr. Ambedkar. He is a Minister and has not served on any committe. But nearly 50 per cent. of the Members of this House have been serving on several committees. They were not "induced" to serve on them as he stated. They were requested to serve on them. They were obliged to serve on . them. They never knew that this would subject them to any disqualification. Therefore, this matter requires serious consideration and I would say more sympathetic consideration at the hands of Government. I have given notice of an amendment which leaves no doubt about this matter. I want that all the committees on which the Members were asked to serve should be incorporated in this Bill. Dr. Ambedkar has expounded his own viewpoint that those who drew fees as settled by the Finance Ministry will not be disqualified. But we do not know what will be the interpretation of the High Courts and the Supreme Court. No doubt, Dr. Ambedkar is one of the legal luminaries. He was the Chairman of the Drafting Committee of the Constitution and yet the Supreme Court and the High Courts have interpreted the various Articles of the Constitution differently from what he had told us in the Constituent Assembly. Therefore, I am not going to accept his interpretation. His interpretation is of no value to us. He must not give us his conjectures. If he wants the Members to remain in this House, if he wants them to contest the elections, let him be honest about it and say that serving on these committees will not disqualify them. According to his own statement, those who receive more than the prescribed rates of payment should make some statement in the nomination paper and then Government will consider his case. Was that the idea when these Members were requested—I repeat, they were requested not induced—to serve on these committees ? Had they known that they would incur any disqualification by serving on these committees, they would not have served on them.

Mr. Deputy Speaker: The courts do not seem to have any jurisdiction in this matter. Under the Constitution, the matter has to be referred to the President, who will decide it in consultation with the Election Commissioner.

Dr. Ambedkar: May I enlighten my hon. friend and tell him how exactly the question arose ? Some Members of Parliament reported certain cases to the Speaker. They said that in their opinion certain Members were holding offices of profit. It is the Speaker who referred the matter to the President and it is the President who asked us to regularise this matter. We have not taken the initiative ourselves.

Shri Sidhva : I know that. But my argument was different. I was referring to the fact that only four categories have been mentioned by the Hon. Minister while there are a number of other Members who have been serving on various committes. According to the Hon. Minister, these persons may not be disqualified but according to the Supreme Court they may be disqualified.

Mr. Deputy Speaker : How does the Supreme Court come in here ?

Shri Sidhva: Well, it is the President. Even if it is a matter to be decided by the President, I do not want any ambiguity to prevail. Supposing the President interprets the case differently and says, "Yes, you are disqualified" ? What then ? The Hon. Minister was right enough when he said that it would have dislocated the administration if these Members have been asked to resign. He also stated that these Members never knew that they would be disqualified under the new Constitution. These were honest intentions, I believe. So, why not embody them in this legislation ? I have mentioned nearly twenty-five committes and I hope all the other hon. Members would press for their inclusion.

Dr. Ambedkar: I am sure you have omitted to mention some.

Shri Sidhva: You add them, I will be only too glad. You should come to our rescue rather than do otherwise. Why should 50 per cent. of the Members of this House run the

risk of disqualification ? I want that Government should reconsider this matter. They should include a clause whereby all members who have served on all or any of the committees appointed by the Ministeries will not be considered disqualified. Or, they should include all the names of the committees. I have given two alternatives. I see no reason why the Hon. Minister should not accept one of them. Why should he leave it to somebody else, even if it be the Prsident ? He considers the receipt of fees as equivalent to holding an office of profit. I may tell him that in the Industrial Finance Corporation there are Members of Parliament who under the rules prescribed by the Finance Ministry draw Rs. 50. In some cases they drew Rs. 75. Subsequently, they agreed to Rs. 40. This is a glaring instance. They are and have been drawing Rs. 40. Will they be disqualified ? Is it fair if they are disqualified ? They were asked in writing, they were requested by the Ministry concerned to serve on this Corporation and they accepted.

Pandit Thakur Das Bhargava (Punjab)**:** They refunded some of the fees and those fees have been returned to them again.

Shri Sidhva: Therefore, this matter should not be treated lightly. I am very glad that Government have brought forward this Bill. It was before this House during the last Session. In fact, we wanted it to be considered along with the Bill dealing with Deputy Ministers and Ministers of State. When the new Constitution came into force we were given an assurance that the Ministers' question would be taken up first and that the Members' case would be considered sympathetically separately. Now this Bill should have been passed during the last Session—nearly five months back. I am very glad that it has found the first place at least now. It is not so simple a measure as Dr. Ambedkar has represented it to be. I would submit to him that the intention of Government is very clear. They do not desire that anybody should court displeasure or disqualification for no fault of theirs. If that is so, let it be made quite clear in the Bill itself. From Dr. Ambedkar's own statement it is quite clear that some of the Members will automatically be considered for

disqualification if anybody were to take the matter to the President, who will, of course interpret the law at the instance of the Law Ministry. The President will naturally consult Dr. Ambedkar and I am sure he will not give a different interpretation to the one that he has given now.

In the course of his speech Dr. Ambedkar did not refer to my amendment—probably he has not seen it. You will see that I have given in my amendment the names of twenty-nine committee on which Members have served. I do not know whether some may have received fees higher than the ones announced by the Finance Ministry. At any rate, I am not prepared to accept Dr. Ambedkar's interpretation, when there are higher authorities to interpret the Constitution.

***Shri Karunakara Menon** (Madras)**:** There are certain committees not formed by the Ministers as such but by the Government: for instance, the Central Arecanut Committee which is a committee constituted by the Government. The members of that Committee, among whom are Members of Parliament also, are nominated. What is to be done with respect to that Committeee ?

Pandit Thakur Das Bhargava: I was myself on a similar Committe : the Indian Central Cotton Committee. But here the wording is "who holds any office of profit under the Government of India or in a State Government". All these fall under the interpretation of Dr. Ambedkar of what an office of profit is. Even if you don't agree, then as stated in the statement of objects and reasons it is a doubtful point. I cannot say definitely that such a membership is not an office of profit, and therefore it is certainly doubtful. Now what would happen to our new Parliamentary Secretaries ?

Dr. Ambedkar: Why do you want to raise problems which are not there ?

Pandit Thakur Das Bhargava: In clause 2 I find only Ministers can hold offices of profit. What about the Deputy Ministers ?

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* P.D., Vol. 14, Part II, 7th August 1951, pp. 57-71.

Dr. Ambedkar: They are included.

Pandit Thakur Das Bhargava: By a stretch of the language you may include Deputy Ministers but what will happen to Parliamentary Secretaries ?

An Hon. Member: They are honorary.

Pandit Thakur Das Bhargava: I was an honorary Adviser; just as in my case one rupee a year appeared, in their case also it will happen. What I say is that if you want to take full advantage of knowledge or experience you should include a list of those offices holding of which does not disqualify a Member of Parliament. Supposing a Member having a special knowledge of some subject is appointed on a committee but if that office is not declared under this Bill then he will not be justified in accepting it. As between him and his services on the one side and this disqualification on the other, the country will be deprived of his services. Therefore we will be well advised in holding up this Bill, or at least in accepting some amendments grounded on these reasons which I am submitting. Otherwise it will mean that these five categories are exempted and the rest of us will again have to go to Dr. Ambedkar .....

Dr. Ambedkar: I have no ill-will.

Shri Sidhva: He is generous.

Pandit Thakur Das Bhargava: I know it is not the Law Ministry which has initiated this measure, but I congratulate them for the manner in which they discharge their duties because they agree that so far as these persons are concerned they should be helped. But does Dr. Ambedkar mean to say that every time there is a case like this we should go to them and ask them for a favour ? So, while congratulating him for his Bill, I want him to include a further provision in the Bill that if such-and-such a principle is applied the disqualification will not apply. I would therefore respctfully request him, so far as Article 102 is concerned, to bring forward a good measure in which the various offices of profit are defined, at least to the extent that such-and-such offices will not disqualify the holder, and also saying that if the emoluments

do not exceed those of a Member of Parliament for attending the session it will not be taken as an office of profit. If we specify the names of the various committees and commissions I know a very large number of them will be covered but all the same the kind of a committee referred to by Mr. Kamath will not come in. I am a very great criminal in this respect. I was also a member of the Rehabilitation Finance Corporation. First of all they gave us fees. We told them that in the matter of rehabilitation work we did not want any fees, they said, 'No, you are entitled'. They gave us Rs. 50 per meeting whereas Members of Parliament are entitled to only Rs. 40 per day. (Now the fees has been made into Rs. 40.) So, they asked us to refund the amount paid to us for meetings for which we had drawn from Parliament. We said, 'All right'. After the refund was made, they came to the conclusion that we were entitled to the money which was refunded back to us. We never asked for it, but when it came we accepted it.

Dr. Ambedkar: That shows the generosity of Government.

The Minister of Education (Maulana Azad): I suppose they did not ask again for the money to be refunded ?

Pandit Thakur Das Bhargava: The difficulty now is this. Even if we did not accept this money and gave it back, we would have come within the mischief of this rule if the office is regarded as an office of profit, because it is not the getting of the mony that matters but it is the office carrying that emolument.

Mr. Deputy Speaker: Is it not an autonomous body created by a statute ? Therefore, is it an office of profit under the Government ?

Pandit Thakur Das Bhargava: It is an autonomous body.

Mr. Deputy Speaker: Therefore, the amount was refunded to you.

Dr. Ambedkar: If you will kindly allow me to explain, I think it will cut short the discussion.

Pandit Thakur Das Bhargava: But you must explain the following three points: (1) Rehabilitation Adviser;

(2) Rehabilitation Finance Corporation; (3) General Committees. Then there are other committees of which some members have told me just now. For instance, some Members have been serving as members of Committees appointed by the Manager of a railway system, or as Presidents of Chambers of Commerce. They are to that extent holding offices of profit under the Government. Will they all come in ? I want that this question should be beyond any doubt. If only five categories are mentioned, we shall have only two courses open : either to see that these persons are not exempted and they remain like us ; or that we are also exempted like them. I humbly submit that this House will not be justified in passing this Bill as it is. Either accept Mr. Sidhva's amendment that on a certain principle all those Members should be exempted and include the Rehabilitation Advisor also in this category. Or lay down a principle which may be of general application and the holders of those posts may be regarded as not coming within the mischief of this rule. What Dr. Ambedkar has done is according to the exigencies of the situation as he understood them then. But now, so many new things have been brought to his notice and he will not be justified in getting this measure passed without including the other committees.

So far as the question of disqualification is concerned, . I submit that none of these persons has really incurred the disqualification, because none of these persons understood nor they had the full knowledge that as a matter of fact they were incurring a disqualification by accepting that post. When this is the position, they ought not to be taken as having incurred the disqualification. In regard to past things, it should be stated that those offices were offices in regard to which no disqualification was attached. Unless this is done, this indemnity Bill will not be an indemnity Bill, because you are not indemnifying persons, you are indemnifying offices. If you make the individuals also immune, then you would have done the right thing. That is my submssion.

Dr. Ambedkar: From the point of view of members of Parliament this Bill is certainly a very delicate Bill and I would begin by reminding hon. Members that they should

be very careful about becoming over-enthusiastic in the matter of attending the provisions of this Bill. My hon. friend Pandit Thakur Das Bhargava was the only member who touched upon this aspect of the matter, though very briefly. That was a point that ought to have been greately emphasized. The reason why the Constitution incorporated this provision in Article 102 was a very substantial one. It was intended to protect the independence of Parliament and consequently Members of Parliament should be very jealous in extending the provisions of Article 192, so that the public outside may not criticise them for engaging in a certain kind of—I hope Members will forgive me—jobbery. We have got to look at it from that point of view. It is quite true that whenever a Member is appointed to a committee he is doing a certain service to the country.

An Hon. Member: Is it jobbery ?

Dr. Ambedkar: It has all aspects about it. From the point of view of the Member, it is no doubt a service that he renders. From the point of view of the opposition, if there is one, it might have another aspect. The opposition might very legitimately contend that the Government is extending the provisions of the office of profit rule in order to collect a lot of people to support it whenever support is wanted. Therefore, as I said, while there are difficulties in the provision contained in Article 102 and they should be solved in order that no serious handicap will be placed in the way of Government having the advice of members on committees whenever Members of Parliament are appointed to such committees and also in order that Members of Parliament may not be debarred from offering service to Government through committees,—while we have to do this, we have to be careful to see that the provisions are not made a temple, the doors of which are very wide and where anybody can enter. I must, I think, utter this caution in the interest of the House.

Subject to that, I think there is a certain amount of misunderstanding about what the Bill does and also the basis of the Bill. I am very sorry to say that I did not present my case clearly, because Members of Parliament have not

followed me or understood me. It must have been my fault that I was not as clear as I should have been. I shall therefore explain the position succinctly once again. With regard to office of profit, we have to determine what is an office of profit and what is not an office of profit. As I told the House earlier, Government does not propose to take a purely technical view of office of profit as they do in England where the law says that such and such is an office of profit, and whether that is any office of profit or not or whether any particular individual who is holding that office of profit draws any money or not, it is for the purpose of the law an office of profit the holder of which is disqualified. It is the intention of the Government not to import that rule in our Constitution and unnecessarily disqualify Members of Parliament under a technical view of what is called an office of profit. I think the House will remember that. We are going, as I said, to take a realistic view of what is an office of profit. In coming to the conclusion as to whether any particular office is an office of profit or not, we have to divide the payment made to the Member into two separate categories. One is payment to a Member which includes nothing more than what may be called actual out of pocket expenses : travelling, living and so on.

Pandit Kunzru (Uttar pradesh)**:** What else ?

Dr. Ambedkar: I am coming to it. I am giving an illustration. I do not know whether you are familiar with it, but I think it is an illustration which is well known to many who attended the Round Table Conference. The second category would include what I would call actual expenses incurred by the member in order to be present at the committee to discharge his functions and something in addition as a recompense for the loss that he incurs by giving up some other business in order to attend to this business. I do not know whether my hon. friend was a Member of the Round Table Conference, but it is a fact and I happen to know it because I was a Member ; the allowances paid to Members were divided into two categories. One category was called subistence allowance which meant 22s. or 21s. per day. The other category was called merely 'allowance' which was

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intended to cover the loss which professional or businessmen incurred by giving up their business in this country and going to London to attend the Conference.

Shri Sidhva: How much was that?

Dr. Ambedkar : I forget the amount now—I think it was £ 100 a month. It is a long story, but I remember the distinction very well. But this distinction to my mind, is a very clear distinction. It is a distinction which can be justified on facts and which has a lot of precedents behind it. Therefore, the conclusion that was reached by Government in assessing whether any particular office was an office of profit or not was this distinction—whether the allowance or payment made to the member was nothing more than the bare expense which he may be supposed in normal times to incur, or whether in addition to this he was paid something more. We have taken the basis for actual expenses what has been decided by the Finance Minstry—in fact. I should have said what has been accepted by Government—not merely decided by the Finance Ministry, but accepted by Government before this conclusion was reached.

As I said, the matter was brought before Government through the Speaker and through the President. There were only one or two cases that were referred to Government for consideration, but Government felt that it was desirable to find out whether there were any more cases of this sort to which the attention of the Speaker was not drawn and we, therefore, circularised the various Ministries. We circularised various offices to let us know whether there were any such cases which required to be considered, so that one comprehensive measure may be brought into cover all such cases that had happened since the inauguration of the Constitution. After the cases were received we applied this test to which I have just now referred—what was the amount of compensation that was paid : was it only the bare expenses, or was it something more than that. If it was something more than that, then we decided that it should be deemed to be an office of profit. If it was just what was decided upon by the Finance Ministry, we treated that it was not an office

of profit, irrespective of the question whether it was held by a Member of Parliament or not. We were very careful—I must again repeat—in finding a true basis for our decision, because if we treated each case *ad hoc,* on its own, it might have been argued that we applied one criterion to one particular case and another criterion for another case. We did not want that sort of accusation to be levelled against Government and therefore we were very keen in finding out a general fundamental principle which would be applied to all the cases. It was on that basis that we came to this conclusion that there were certain cases which exceeded the principle, namely, that the allowances were beyond what might be called merely compensation for actual expenses incurred.

Pandit Kunzru: But there were other committees.

Dr. Ambedkar: I am just coming to them. Now, with regard to the question that has been raised namely Rehabilitation Finance Corporation, it is obvious that the Article speaks of offce "of profit under the Government of India or the Government of any State". An office of profit under a Corporation may be an office of profit. It is certainly not an office of profit under Government, and, therefore, the person is not disqualified.

Shri Sidhva: It is under the Government of India.

Dr. Ambedkar: What I give is the judicial interpretation and I am sure my hon. friend Mr. Sidhva, who I do not think would claim that he is a great constitutional lawyer, would not contest that position.

Shri Sidhva: What about the Supreme Court decision ?

Dr. Ambedkar: The Supreme Court has nothing to do with it. I was going to say that many Members are under the impression that this a matter which can be taken to the Supreme Court. This matter cannot be taken to the Supreme Court. If the House will allow me to say so, it is out of deference to the House that we have brought this measure. The President has absolute power to say whether any particular office is an office of profit or not. But we thought that it was not right to let the President decide it. We thought

it would be better if the matter was brought before Parliament and sanction of Parliament was obtained and that is the reason why the Bill has been brought forward.

Now, with regard to the Rehabilitation Finance Corporation there can be no manner of doubt that this thing applies only to office of profit under the Government whether it is the Central Government or the State Government. It does not apply in office of profit under say, for instance the Sindri Corporation, or the Damodar Valley Corporation, or various other Corporations which have been created by Government.

Shri Sondhi: Sindri is not a Corporation.

Dr. Ambedkar : I was only quoting it by way of illustration. I am only making a general proposition that so far as office of profit under a corporation is concerned, a person is not affected by anything that is said or done under Article 102 of the Constitution. Consequently it was unnecessary to make any reference or provision in this Bill with regard to those Members of Parliament who may be holding office of profit under Rehabilitation Finance or various other corporations to which reference has been made.

My hon. friend Pandit Thakur Das Bhargava said that the Government of India has been acting in a somewhat erratic, if not ridiculous, manner—asking members to return the money and then again requesting them to receive it back. Well, I suppose whoever the officer was who was responsible for this kind of thing was undoubtedly under the impression that the office of profit was an office of profit, whether it was under the Government of India or under a Corporation. That mistake was discovered and I think rectification was made and I am sure about it that such a mistake would not be repeated hereafter. That is the reason why no reference has been made in the Bill with regard to the Rehabilitation Finance or other Corporations.

With regard to the long list which my hon. friend. Mr. Sidhva has given in his amendment, I should like to say that there again the same thing applies. The advice which the Law Ministry received was that the allowances paid to

these members were not such as to include profit or something more than actual expenses. On the view that we have taken that they are not office of profit, we do not think it desirable to enlarge the list by including in that category persons or officers to whom Mr. Sidhva refers in the amendment that he has given.

Pandit Kunzru: May I point out one thing—that is that the allowances which these members received exceeded the limit which I understand has now been fixed by the Finance Ministery.

Dr. Ambedkar: It might be so. But when the Bill says that according to it members of certain committees have incurred a disability and that disability shall be removed, the proper construction to put upon that clause would be that no other member of the Committee was disqualified and therefore, the Bill made no reference to it.

Then with regard to the general proposition which my friend Mr. Sidhva was enunciated in his second amendment.....

Pandit Kunzru : Will my hon. Friend kindly explain what are the special reasons that made the members of the committees referred to in the Bill liable to disqualification ?

Dr. Ambedkar: Because there is an element of profit in the payment that was made to them.

Pandit Kunzru: That is the allowance they received exceeded Rs. 20 ?

Dr. Ambedkar: We thought that there was a certain amount of doubt in their case and the Bill seeks to remove that doubt.

With regard to the general proposition which my friend Mr. Sidhva has enunciated, in amendment No. 2, that we should have a general rule and let the general rule apply so that there may be no more necessity for Bills of this kind. I think it is too tall an order for me to accept, for the simple reason that although for the monent and for the purposes of this Bill we have accepted a certain basis of remuneration—

and it is on that basis of remuneration we have come to the conclusion as to which particular committee requires exemption, which does not require exemption—it is perfectly possible for Parliament or for Government to change the basis of that remuneration. And if they change the basis of the remuneration the general proposition would create so many difficulties for us, because the general proposition would be at variance with the actualities of the case. It is therefore proper, as I have always stated, for Parliament to retain this power in its hands. After all, the Government cannot declare that so and so is disqualified. Nobody has a right to go to the Supreme Court to say that a certain Member is disqualified. The whole matter, ultimately, is in the hands of Parliament, and we want to leave the matter in the hands of Parliament, so that whenever a case arises Parliament may decide. whether this is a case which comes under disqualification or this is a case which, if it does come under disqualification, should be indemnified. I think it is much better that the matter should be left in the way in which I wish to leave it, rather than to tighten it up so that nobody at an opportune moment may loosen the knot.

Shri Kamath : Is it not ultimately a question of privilege of the House ?

Dr. Ambedkar: I do not want to come to that, whether it is a privilege or not. But it is certainly a Constitutional provision which Parliament is required to obey, and Parliament will be doing a great deal of wrong to the Constitution if it does not follow the provisions of Article 102 when ultimately, as I say, the Government, and the Bill, is prepared and wants as a matter of fact to leave the whole matter in the hands of Parliament to decide each particular case. Mr. Sidhva had some amendment. But can anybody in this House tell me right now what are the likely offices or committees which the Government might hereafter create ? I cannot imagine such a thing right now if somebody were to ask me a question "Tell me what are the committees". If you want to enter all these in the Bill, you must know and define them. Nobody can anticipate what committees are likely to be appointed.

Therefore, when Parliament appoints a committee, or when Government proposes that a certain Member of Parliament be appointed to a certain committee, it is then that the Member concerned may rise and ask the Prime Minister or the Minister in charge of the Ministry who is appointing the Committee to let him know right then what is going to be his position, whether he will be disqualified or not, and he can demand from the Minister an assurance or a contemporary resolution to be accepted by Parliament that "in this particular case any Member appointed to the committee shall not be deemed to be disqualified".

Shri Sondhi: If it is a Government committee ?

Dr. Ambedkar: Even then Members of Parliament must protect themselves and a Member of Parliament can protect himself by asking for an assurance from the Government that whatever be the other matters he shall not be deemed to be disqualified. When such an assurance is given, obviously Government cannot go behind such an assurance.

Pandit Thakur Das Bhargava: Only under Article 102 a law must be passed by Parliament declaring that office to be not one of profit.

Dr. Ambedkar: We are dealing with specific case. As regards Parliament passing a general law, I do not know what that general law can do. It can, so far as I can imagine, say that whenever a Member of Parliament is appointed to a committee the members whereof receive an allowance which may be described as profit—in that very case Parliament can state as they do in England—that the appointment of the Member shall not be deemed to be an office of profit.

Shri Kamath : Can we not lay down a uniform procedure ?

Dr. Ambedkar: I cannot, for the simple reason that the basic allowance may change.

Shri Kamath : Still we can lay down a uniform procedure.

Dr. Ambedkar: It is possible for Parliament to do so. I do not know what time we have. But the next Parliament can pass a small Act saying that whenever any Member of

Parliament is appointed to any committee where the allowances may be more than mere remuneration and the appointment may be regarded as an office of profit, then in the case of each appointment the Act of Parliament shall say that "this shall not be regarded as an office of profit". That may be done in a general way.

Shri Sidhva: What about the committees in which Members are now drawing more than Rs. 20 ? There are certain committees.

Dr. Ambedkar: I have no idea.

Shri Sidhva: That is the point to be clarified.

Dr. Ambedkar : If you bring such cases to our notices we will examine them. So far as our Department is concerned we had collected all the information from all the Ministers. We examined them and found that these are the cases where the allowance exceeded the standard that we had fixed and therefore an indemnity was necessary. In other cases we found that the allowances did not offend against the basic rule and consequently no such indemnity was necessary.

Shri Sidhva: What is your information ?

Dr. Ambedkar: You must accept our information. Let the Member who is affected make a representation that "I am drawing more but I am not exempted".

Shri Sidhva: Why not do it here ?

Dr. Ambedkar : I cannot off-hand accept your suggestion. You may accept that your facts are not correct as mine may be. Yours are the labours of a single individual. Here hundreds have examined and surely their information may be taken to be more reliable.

My friend Mr. Kamath asked me something about the Assam Government Pleader. Well, I do not know but I should like to say this. Whether a Government Pleader in a Province is the holder of an office of profit or not is a matter which has been decided long long ago. So far as I remember when the Government of India Act came into operation in the Province in 1937, a ruling was given, I believe in some of the

provinces by their Advocates-General that this was an office of profit. In fact I have a case in mind where a certain Government Pleader had to resign on this account I do not know whether any such case had arisen in Assam. May be it had arisen ; may be it had not arisen. An uncharitable interpretation might suggest that a lawyer who is a Government Pleader ought to have been aware of the position.

Mr. Deputy Speaker: I was informed that the hon. Mr. Wajed Ali himself was the Member and he wanted an opportunity to speak.

Dr. Ambedkar: If he speaks then I won't speak. But he one day came to me—I forget the day—and asked me whether he was disqualified. I think he will agree with me that I told him he was disqualified, that that was my view, and that any Member of Parliament who is a Government Advocate in a Province was disqualified. I told him that. He said that he was very sorry and that he did not know that. Thereupon I said that there may be provision for condonation and so on and so on and told him "You better make a representation to the proper quarters". I think he represented the matter to the Speaker, if I remember correctly, and the Speaker referred the matter to me that in view of the fact that the Member has stated definitely that he was not aware of this ruling and had continued to hold that office the Government might consider his case also for indemnity.

On that basis we did include his case. That is all I have to say.

Shri Kamath: The Coal Inquiry Committee was constituted after March, 1950, after the Constitution came into force. Why was this aspect of disqualification not considered at the time the Committee was constituted ?

Dr. Ambedkar: Mr. Kamath, these are all very good and very nice points but as I feel Government was not very particular or very meticulous in applying Article 102 because we were working on an *ad hoc* basis. The whole trouble was created by the fact that so far as the Constituent Assembly

was concerned, we had abrogated this rule and we had allowed the Constituent Assembly to function also as a Legislature. There was a certain amount of mix up and confusion and consequently the Government's attention was so to say not attracted towards this particular proposition but when the matter was brought to their notice they thought that this was the best thing that they could do in the circumstances and I hope the House will accord its support to this Bill.

Dr. Pattabhi (Madras)**:** May I invite the attention of the House to a somewhat interesting view taken by the Madras Government in regard to the question as to whether a Public Prosecutor or Government Pleader is or is not a Government servant for purpose of legislative elections. Mr. Yahia Ali, Public Prosecutor of Nellore was considered a public servant so far as election to the Legislature was concerned and the method adopted was this. He was to resign his office of Public Prosecutor so as to contest the legislative election, become a Member of the Assembly and then he was appointed by the Government to the public prosecutorship. He has done this three or four times and ultimately his troubles were put an end to by being transferred to the High Court Bench.

Shri Syamnandan Sahaya: Sir, may I have one information ? In part (d) you have included the office of Members of the Railway Local Advisory Committees up to 1951. Perhaps you will propose an amendment to make it 1952. My difficulty is will you bring such motions year after year in order to include annually 1952, 1953 and 1954 or you will lay down that membership of Railway Local Advisory Committees will not act as a disqualification.

The other point is having now had all these different committees definitely laid down in this Bill does it not really place the President in an embarrassing position. He will now feel difficulty as the Parliament has only made mention of certain committees which will not be construed as offices of profit. If any matter is referred to him he may have a difficulty and he may have to call the Parliament even if the case is justifiable and within his competence to decide.

Dr. Ambedkar: I do not think my hon. friend need worry about the President. We make use of him for a variety of things and we have Article 392 whereby he can issue an order and we do not propose to take advantage of that in spite of the transitory situation.

Mr. Deputy Speaker: We are starting another discussion after the discussion is over. I will put the motion to the House. There are other clauses and hon. Members have got ample opportunity.

The question is :

"That the Bill to declare certain offices of profit not to disqualify their holders for being Members of Parliament, be taken into consideration."

The motion was adopted.

Clause 2.—(*Prevention of disqualification etc.*)

Amendment made :

In page 1, (i) in line 23, *omit* "and"; and

(ii) *after* line 2, *add:*

"(*f*) the office of members of the Enquiry Commission appointed by the Government of Assam or by the Government of West Bengal in pursuance of the Agreement made between India and Pakistan on the 8th April 1950, for any period not extending beyond the 31st day of December, 1950 ; and

(*g*) the office of member of the Bombay Revenue Tribunal for any period not extending beyond the 1st day of April 1951."

— *Dr. Ambedkar*

Mr. Deputy Speaker: We shall go to the other amendments.

Shri Kamath: As the Minister has explained the position, I am not moving 2 and 3, but No. 1 will come later on.

Pandit Thakur Das Bhargava: In view of the statement made by Hon. Dr. Ambedkar, I do not think my amendment is necessary.

***Dr. Ambedkar:** I may explain, with your permission, the point raised by hon. friend. Actually, when the Resolution was issued by the particular department concerned when they formed the Foodgrains Investigation Committee, the allowance mentioned was Rs. 20, and possibly the information supplied to the Law Ministry for the purpose of clarifying this position was that Resolution. We have acted on that Resolution. But I do now hear that the Food Ministry have changed that rule and have allowed the members to draw something more. But, the basis of our action is the Resolution.

Shri Sidhva: What will happen to that member ?

Dr. Ambedkar: My friend Mr. Sidhva does not seem to understand the point. Unless the President issues an order that a member is disqualified, the Member can sit in the House and function.

Shri Sidhva: I know that.

Dr. Ambedkar: Therefore, as I said, we have been supplied with the various Resolutions passed by the Ministries constituting the committees and we have found on the basis of the Resolutions that those committees did not offend the basic rule. If further information is supplied showing that there were such cases where Members in fact drew more, it would be perfectly possible to regularise the position. Where is the difficulty ? I do not understand.

Shri Himatsingka: Why not do it in a general form ?

Dr. Ambedkar: I cannot do it. I must make further enquiries as to what exactly is the position. Nothing is going to be lost if this Bill is passed and another Bill brought into cover cases which actually are necessary to be covered.

Shri Sidhva: How can that be ?

Dr. Ambedkar: Why? I do not understand.

Mr. Deputy Speaker: This can be definitely looked into. It does not matter if this stands over till tomorrow.

Some Hon. Members: Yes, Sir.

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*E. D., Vol. 14, Part II, 7th August 1951, pp. 73-79.

Mr. Deputy Speaker: But, if before tomorrow these matters cannot be settled, then, we can proceed with the Bill immediately. The President must, first of all say that a Member is disqualified. That is clear. Clause (1) (a) of Article 102 says: "if he holds any office of profit under the Government of India other than an office declared by Parliament by law not to disqualify its holder." Independently of the procedure under Article 103, without a question arising and the matter being referred to the President, Parliament can say that an office shall not be deemed to be an office of profit where it is clear that the remuneration is what is thought to be a fair compensation. Without bringing another Bill, if it can be disposed of by a suitable amendment herein, the Hon. Law Minister may consider that matter. There is a list of all these committees, and Mr. Sidhva's amendment will stand over. I will put the other amendment to the House which seems to be not opposed. That stands in the name of Shri Sri Narayan Mahtha.

Dr. Ambedkar: That I am accepting.

Mr. Deputy Speaker: I shall put it to the House. Barring that, the other things given notice of by Mr. Sidhva may be looked into next day.

Dr. Ambedkar: He can give me the actual resolutions ; I can verify.

Mr. Deputy Speaker: This will be the first matter

tomorrow. He need not bring any amendment. This will stand over so far as Mr. Sidhva's amendments are concerned.

Shri Himatsingka: May I suggest this for the consideration of the Hon. Law Minister? If he puts the proposition in a general form that membership of any committee where the payment does not exceed a certain amount, in the past, will not be regarded as an office of profit, that would cover.

Mr. Deputy Speaker: The Hon. Law Minister has already said that such a general proposition...

Shri Himatsingka: That is only with respect to the past.

Mr. Deputy Speaker: With respect to the past, there have been varying amounts paid: Rs. 40, 50, etc.

Shri Sondhi: Forty rupees is the maximum.

Mr. Deputy Speaker: If the hon. Member brings these matters to the notice of the Law Minister, he will go into them instead of throwing open the floodgates and making it appear that we are trying to bring in the immunity to a vast number of members. Let us not lay ourselves open to that kind of accusation.

An Hon. Member: That is only for the past.

Mr. Deputy Speaker: If any particular categories are there, they may be brought to the notice of the Law Minister and he will look into them.

Dr. Ambedkar: In this case, the resolution mentioned Rs. 20.

Pandit Kunzru: Before the discussion is adjourned till tomorrow, I might make a suggestion. The whole trouble has arisen because the Finance Ministry has decided that if any member receives a daily allowance of more than Rs. 20 for serving on a committee, he shall be regarded as holding an office of profit. If the Ministry decides that the limit should be increased from Rs. 20 to Rs. 40 which is the daily allowance drawn by a Member of Parliament for attending the meetings of Parliament, these troubles will disappear. I suppose that if this view had been accepted by the Finance Ministry, the Bill now brought forward by Dr. Ambedkar would not have been necessary. This Bill has been made necessary by the low limit fixed by the Finance Ministry. The Finance Ministry can do away with all this trouble and set the minds of hon. Members at ease by simply announcing that if a member receives an allowance not exceeding the daily allowance to which a Member of Parliament is entitled for attending the meetings of Parliament, he will not be regarded as holding an office of profit. No doubts will arise and no Bill will be necessary.

Dr. Ambedkar: I would just like to say one word of correction to what my hon. friend has said. What the Finance

Ministry—I should not bring in the Finance Ministry—what the Government now says is this. For non-official members of a committee, certain allowances have been fixed, as I said, so much for travelling by air, so much for travelling by train, so much for living allowances, Rs. 15 for Calcutta and Bombay and Rs. 12-8-0 elsewhere. That is the standard which the Government accepts as the standard of payment in which no profit element is involved. I believe my hon. friend has omitted to take that into account. If we are to have a mixed committee consisting partly of Members of Parliament and partly of members who are not Members of Parliament, obviously, we cannot prescribe different standards of payment. The standard of payment that we must adopt for a mixed committee of this kind is the standard which has been laid down for payment for members who are not Members of Parliament and consequently that standard becomes the ruling standard.

Shri Sondhi: I would like to make one submission, Sir. There is a Committee from the Agriculture Department, the Central Arecanut committee. The daily allowance is Rs. 12-8-0 and not Rs. 12. Are we disqualified ? There are four members here.

Pandit Thakur Das Bhargava: I have heard Dr. Ambedkar with great attention and respect, but I must very humbly point out that he is an entirely wrong way of looking at the question. Article 102 of the Constitution makes it quite clear that the President is the final authority, that he has the final power of deciding about a particular case. And, in the alternative it is Parliament which can decide whether certain offices, if held would not amount to disqualification. The Finance Ministry or the Government as such has absolutely no power whatsoever in this connection. They cannot fix any standard whatsoever. Suppose there is a committee the membership of which carries an allowance of only Rs. 10 or even Rs. 5 but still the committee may be of such importance that its membership may be considered an honur and many would like to serve on the committee, in which case it will be perfectly open to Government to exercise its patronage in appointing the members to such a committee, exactly the thing which Dr. Ambedkar and we all

want to avoid. Therefore I say, it is no business of the Government to decide whether an office held is an office of profit or not. That is something for the President or for Parliament to decide.

Dr. Ambedkar: That is why the Bill has been brought before Parliament.

Pandit Thakur Das Bhargava: For Government to arrogate this power to themselves is certainly wrong. If they say that they have got the President in the hollow of their hand and they can fix a standard of profit I do say thay are wrong. In certain cases it is the President in consultation with Election Commission who has to decide whether an office is an office of profit or not and in other cases Parliament decides. I do not think that the Finance Ministry or the Government can decide this matter at all.

Shri Sidhva : Shall we not agree that whatever allowance is drawn up to the limit of the allowance of a Member of Parliament shall not be considered a disqualification ? House should decide this matter and not Dr. Ambedkar.

Mr. Deputy Speaker: Having heard the discussion, I can only say at this stage that there is nothing to prevent us from adding a clause here to the Bill itself to say that notwithstanding anything contained so far, if a Member of Parliament is on any committee and does not draw an allowance more than that drawn by him as a Member of Parliament, he shall not be deemed to be disqualified. That is just a suggestion. In that case it would not be open to the objection that Government is placing allurements before Members, because nothing more than Rs. 40 will be paid. But there is this difficulty that if an official is appointed on a committee he will continue to draw a different rate of allowance, probably according to the salary he draws. But this matter may be considered. I would therefore allow this to stand over till to-morrow and get through with Mr. Narayan Mahtha's amendment.

Shri Kamath: Sir, last year this House decided that the offices of the Minister of State and the Deputy Minister would

not amount to disqualification under this Article. Therefore the present Ministers of State and Deputy Ministers do not incur any disability. But what about the newly born Parliamentary Secretaries ?

Mr. Deputy Speaker : They are also included in the Act.

Dr. Ambedkar: Sir, with reference to the suggestion made by you that this may be taken up to-morrow may I point out that it may not be possible for me to undertake that this matter will be taken up to-morrow. This is a matter which I have to refer back to the Ministries and that may take time. " So if it is kept over, it may be taken up on any convenient date.

Mr. Deputy Speaker: Is it the wish of the Hon. Law Minister that we may get through the other amendments ?

Dr. Ambedkar: The amendments may be moved. I accept Shri Narayan Mahtha's amendment.

Shri S. N. Mahtha (Bihar)**:** Sir, I beg to move:

In page 1, line 23, *after* "March 1951" *insert:*

"or for the year ending on the 31st day of March 1952".

Shri Sidhva : But, Sir, we have not received notice of this amendment at all. It has not been circulated among us.

Dr. Ambedkar: It is just a small amendment.

Shri Sidhva: It may be small according to the Law Minister, but it may be a very important one.

Mr. Deputy Speaker: Then does the hon. Member want this also to stand over ? It is just a small amendment extending the period from March, 1951 to March, 1952.

Shri Sondhi: Let this also be considered along with the whole Bill later on.

Mr. Deputy Speaker: It is a simple amendment extending the period up to March, 1952. There need not be any speeches on it and I shall place it before the House.

Amendment moved:

In page 1, line 23, *after* "March, 1951" *insert*:

"or for the year ending on the 31st day of March 1952".

Shri Sidhva: Sir, these local advisory committees are permanent committees elected by the Railway Standing Committee. Therefore, I would like to know whether every year amendments like this will have to be brought into remove the disqualification ? Will it not be better to consider this matter in greater detail and devise some proposition under which this annual performance may not be necessary ?

Mr. Deputy Speaker : As the hon. Member will see, this relates to the sitting Members. The year 1951-1952 has already started and to remove the disqualification from the whole period, the date has to be extended to 31st March 1952.

Dr. Pattabhi: But we are sitting in April, 1952 also.

Mr. Deputy Speaker: If it is not extended, Members who have agreed to serve on committees would be obliged to resign straightaway. Therefore the period is being extended to 31st of March 1952. We are in the middle of the year 1951-52 and therefore, this amendment is necessary. As to whether this amendment should be effected now or hereafter, it is for the Law Minister and the House to consider and decide. We are not bringing in a legislation to remove disqualifications under various categories.

Shri Sidhva : Sir, what you state is perfectly correct. But these Advisory Committees are very important bodies. My point is—and I may add that I am not a member of an Advisory Committee—my point is, as Members of Parliament we are interested in the carriage of passengers and goods by the railways and just because as a member of the committee a person draws an allowance of Rs. 30 or so, he should not be debarred from being a Member of Parliament. In this matter the Railway Finance Committee and the Advisory Committee have to be consulted. So this question of changing the date from March, 1951 to March, 1952 may also be postponed and considered along with the other provisions of the Bill when the Bill comes next to us.

Dr. Pattabhi: Why not say "during the tenure of the present Parliament." ?

Dr. Ambedkar: I thought that the amendment was a very simple one. The reason why the Bill originally did not mention the words that are now sought to be introduced by the amendment was because the Bill was expected to be passed much earlier. That did not happen. Members have continued to sit. If you want to completely exonerate them from the application of this office of profit rule it is necessary to continue the period. With regard to the future I understand that the allowances have been reduced, so that no disqualification should be incurred.

An Hon. Member : By how much ?

Dr. Ambedkar : The same Rs. 20.

The Minister of State for Transport and Railways (Shri Santhanam): I shall give the information on the next day.

Mr. Deputy Speaker: It has been so reduced as not to impose this disqualification. This only applies to existing members.

The question is :

In page 1, line 23, *after* "March, 1951" *insert:*

"or for the year ending on the 31st day of March 1952".

The motion was adopted.

Mr. Deputy Speaker: The rest of the Bill will stand over to such other day as the Hon. Law Minister may find convenient to bring it before the House.

Pandit Kunzru: As the Hon. Law Minister has been given time to think over the matter I hope he will arrive at a correct decision.

Dr. Ambedkar : I should like to say that I would be very much dependent upon the advice of my hon. friend.

(36)

*ASSAM (ALTERATION OF BOUNDARIES) BILL

Mr. Deputy Speaker : The House will now proceed with the further consideration of the motion that the Bill to alter the boundaries of the State of Assam consequent on the cession of a strip of territory comprised in that State to the Government of Bhutan, be taken into consideration.

The Minister of Law (Dr. Ambedkar): I am sorry I was not present in the House when a certain point was raised by certain Members that Parliament had no power to pass this Bill, in view of the fact that the Bill proposed, although indirectly, to cede certain portions of territory which belonged to the Indian Union, to Bhutan. I heard that my hon. Friend Mr. Sri Prakasa also made certain submissions to the House on this point in justification of the stand taken by the Government. But, I was told that the House expects me to say something on the point.

The point seems to be very easy. I think, in order to under stand the matter fairly, it is better to begin by a reference to List I contained in the Seventh Schedule, which defines the legislative powers of this Parliament. I would refer to List-I, Entry No. 14 and Entry No. 15. Entry No. 14 relates to the making of treaties and entry No. 15 refers to war and peace. The question that has been raised very largely hinges upon the interpretation of the words 'treaty making' and 'war and peace' What do these items include ? This matter was debated at great length in the United States when the question arose for the first time for interpretation. In order to cut short the matter, I should like to state that in the United States it has been accepted that treaty making does include the power to cede territory.

*P. D., Vol. 14, Part II, 8th August 1951, pp. 103-118.

Pandit M. B. Bhargava (Ajmer)**:** Is there any prohibition there ?

Dr. Ambedkar : I shall quote the authorities if my friend wants. I have got plenty of them. I do not want to weary the House : I am only going to give the gist.

Treaty making does include cession of territory. In the same way, apart from that particular Entry, the Entry relating to war and peace must necessarily include cession of territory because it cannot be denied that it may sometimes become necessary for a State which is at war with another foreign State, in order to establish peace, to cede a part of its territory as one of the terms and conditions of a treaty of peace. Nobody, I am sure, can challenge or deny that interpretation of the Entry relating to war and peace. Now, if in certain circumstances the Entry relating to war and peace and the Entry relating to treaty making must necessarily include cession of territory, it is quite obvious that the content of these Entries must be deemed to include cession of territory. Therefore, as against the mere fact that in the rest of the body of the Constitution, there is no specific Article conferring specific powers on Parliament to cede territory my contention is that Entries 14 and 15 are quite sufficient....

Shri Kamath (Madhya Pradesh)**:** No, no.

Dr. Ambedkar: ..... to endow Parliament with the power to cede territory. My hon. friends, some of them, are shaking their heads saying that that is not correct. But, still, I hold to my view.....

Shri Kamath: We also will hold to ours.

Dr. Ambedkar: ..... that what I am submitting is a point which has been accepted by all great constitutional lawyers, and by the Supreme Court of the United States where also a similar power exists.

Shri Sidhva (Madhya Pradesh)**:** What about our Supreme Court?

Dr. Ambedkar: Therefore, the first point that I want to submit to the House is that so far as Entries 14 and 15 in List-I are concerned, there is the greatest amplitude of power conferred upon Parliament for the purpose of ceding territory.

In view of the fact that certain Members of Parliament seem to be rather unconvinced or not prepared to accept the submission that I am making. I would like to elaborate the point a little further. Hon. Members will remember that the Constitution of the United States is, in a sense a very difficult Constitution, for the simple reason that the States in the United States are much more independent and sovereign than the States which are constituent elements of the Indian Union, in the sense that the powers of the Congress are derived from such powers as have been delegated to it by the States composing the United States. It is a Government of what are called not merely delegated powers, but enumerated powers. There is no such thing as residuary power in the Central Government of the United States such as we have in our Constitution. Taking advantage of this position, namely, that the States in the United States are masters of their territory and the United States Central Government has no authority so far as the territory of the States is concerned, except with regard to certain limited matters handed over to the Central Government, there was a stage in the interpretation of this particular document under which it was contended that although the treaty-making power of the United States Government may include within it the power to cede territory, it could not include the power to cede territory which belonged *to* the State. In other words, the treaty-making power of the United States was subject to what was called the doctrine of the inherent rights of the States. It may transfer such other territory which it may have, which it may have conquered which are regarded in the United States as territories of the United States, but not as constituent parts of the United States. That doctrine, as I said, was urged for a long number of years in the United States. But ultimately the position taken by the Supreme Court of the United States was that

the treaty-making power was so unlimted that even a whole State may be transferred and ceded by the United States, if it felt necessary, under the war and peace entry or under the treaty-making power.

Shri Kamath: Which particular State was ceded like that ?

Dr. Ambedkar: I cannot give you that but I can give the whole volume and the reference too. It is in Willoughby on the Constitution of the United States from page 572 to the end of the volume, I think—it is not very much. It is in Chapter XXXV of the volume, and there you will find all these points discussed. And there is a valuable opinion of Mr. Justice Storey—I think most Members who are interested in constitutional law must be familiar with his name, being one of the greatest authorities on Constitutional law. The chapter begins on page 561, but the particular entries are in paragraphs 311, 312 and the other paragraphs up to paragraph 317.

Therefore, my first submission is this that so far as the point raised yesterday is concerned, that Parliament has no authority, I submit that that point has no foundation in law at all, and that this Parliament has ample power to cede territory and as a consequence of the cession of the territory make adjustments within the boundaries of the States of the Union.

Now, the question that arises for further consideration is whether it is necessary for the President to have brought this matter before Parliament or whether he could dispose it off purely in his executive capacity. Now, on that point, I might also mention incidently, that the same doctrine prevails in England, that the King can cede territory. In fact, it is the prerogative of the King to do so.

Shri Kamath: An un-written one perhaps.

Dr. Ambedkar: Whatever it is, the doctrine is there.

Shri Kamath: England's Constitution is un-written, that is the difficulty.

Dr. Ambedkar: That does not matter at all. I know my hon. friends are relying upon Article 3 of the Constitution.

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Shri Kamath: Articles 2 and 3.

Dr. Ambedkar: I am not touching them at all.

Shri Kamath : Evading them ?

Dr. Ambedkar: I go on a different plane because I am prepared to say that these Articles have no reference to the cession of territory. They do not prohibit, but they have nothing to do with cession. I am prepared to say that in view of the fact that I was concerned with the making of the Constitution, and most Members probably do not know what the intention...

Shri Kamath: All of us were so concerned.

Dr. Ambedkar: They do not probably know what the underlying intention of this Article was. I know it better and I am prepared to say that though it does not prohibit cession, as pointed out by my friend Shri Santhanam, its primary intention was for dealing with the linguistic distribution of the Provinces. That is why I do not refer to the Article of the Constitution, because the Government's case might be considered to be very weak if I relied on Article 3. So I am relying on something much more fundamental and which no Member can deny namely, the power to make under Article 3.....

Shri Kamath : The acquisition of new territories is under Article 2 which does not mention cession.

Dr. Ambedkar: But that does not matter now. The rule that if one thing is expressed and the others are not expressed, then they are excluded, does not apply universally.

I was trying to point that this position, namely, that the State is entitled to cede territory is also the law in England. It is a matter of prerogative for the king to do so and he can do so.

Now I would turn to the second part of the question, namely, whether Parliament need be consulted in a matter of this sort. As you know, in England, the position has varied from time to time. At one time the view that was taken was this, that was a matter which related to the prerogative of the king. And prerogative means what ? Let me define it briefly. Prerogative means the power of the king to do something for which Parliamentary sanction is not necessary. This is the gist of what is called the prerogative right of the king. Therefore the old view was that since cession of territory was the result of the prerogative of the king, it was not necessary to bring the matter before Parliament because the king was supreme, unless Parliament, by specific law took away the prerogative of the king to make treaty and to cede territory. And as Parliament has not done that, the king has got the power. All the same, treaties ceding territory have come before Parliament in England and I will briefly explain the reason why they have come before Parliament. In the first place, the Government in England has felt that it is much better to obtain the sacntion of Parliament to the cession of territory because it was deducting so much territory belonging to sovereignty and over which Parliament exercised supremacy. Therefore, nothing ought to be done without the consent of Parliament. The second reason why it became necessary for the British Government to bring treaties of cession before Parliament was this. It was felt that the transfer of territority was after all, a transfer of the nationality of the people residing in that particular territory. The reason is that when you transfer territory, by virtue of that transfer you also practically transfer the nationality of the people. They became citizens of another State. It was felt that this was too much and it was necessary to consult Parliament whether such a step should be taken, because it was possible that Parliament may insist that the cession should not be in absolute terms but subject to certain conditions. For instance, Parliament may say that although the territory may be transferred, the nationality of the people should not be transferred by virtue of the transfer and that the people may be permitted to maintain their old nationality

or some other provision might be introduced into the treaty, whereby voluntary transfer of nationality may be made a condition of cession. As it involved citizenship and nationality, the British Government always felt that it was desirable to place before Parliament any treaty though it was made by the prerogative of the king and by virtue of which did not require the sanction of Parliament. It was felt that Parliament should be given a voice in determining the nationality of the people in the territory which was being ceded.

The third thing is that under the English law, while it was the prerogative of the king to transfer territory, the treaty by itself could not affect the right of the people. If for the performance of the treaty certain existing laws were abrogated or affected, then the treaty itself was not competent to do it. It required a separate sanction of Parliament to alter those laws which regulated the rights, obligations and liabilities of the people in order to bring them in conformity with the provisions of the treaty.

These were the principal reasons why under the English law, although the right to transfer territory was a prerogative of the king, the British Government introduced the practice of placing all such treaties before Parliament for sanction. That is the reason why the Government in this case felt that it was desirable to bring this matter before Parliament and obtain its sanction, because in this very Bill I do not exclude the possibility of Parliament introducing certain changes with regard to the nationality of the people in the territory which is sought to be transferred to a foreign State like Bhutan.

These are my submissions with regard to the various points raised. My first submission is that it is not necessary to rely on Articles 2 and 3 of the Constitution, because they relate to a different matter. The purpose of this Bill and that of this treaty come under entries 14 and 15 in legislative List No. I of the Seventh Schedule. In my judgment, according to the interpretation put upon the content and the ambit of these two entries, it is sufficient to give authority to Parliament to sanction a measure of this sort.

Shri Kamath: Before you proceed further, Sir, may I request you to summon the Attorney General to be present here during the course of the debate, as important matters are being raised in the House ?

An hon. Member: He is in Australia.

Shri Kamath: Is not his Deputy here ?

Several Members : *rose—*

Mr. Deputy Speaker: Hon. Members who have already spoken need not rise. They have no right to speak just because the Law Minister has raised certain new points.

Dr. Pattabhi (Madras)**:** Several points which are neither in the Bill nor in the statement of Objects and Reasons have now been adduced by the Law Minister and the whole discussion assumes a *de movo* form, if you have followed it carefully. There was a reference in the Statement of Objects to part (c) under Article 3 of the Constitution. There is the statement of the Law Minister that the Bill has nothing to do with Article 3 of the Constitution. You must reconsider your decision, Sir, and allow a fresh discussion on the matter.

Dr. Ambedkar: Article 3 comes in only incidentlly, because the cession of territory cannot be carried out unless until the boundaries of Assam are adjusted. To that extent Article 3 is relevant. Otherwise Article 3 has no relevance.

Dr. Pattabhi: You were not present in the House yesterday when certain statements were made

Dr. Ambedkar: I am sorry I was not here. If somebody had told me I would have been here. (*Interruption*). Article 3 comes in only incidentally. The cession of the territory was the consequence of readjustment of the boundary of Assam. So far as there, there should be reference in Article 3.....

Dr. Pattabhi : For which there is no provision in the Act— I mean for cession of territory.

Dr. Ambedkar: That is a difference in opinion. Entries 14 and 15 contain, if you want, the basis of action for the union territory.

Dr. Pattabhi: Then do not quote Article 3.

Dr. Ambedkar: Article 3 has been reported in an incidental manner because it has reference to the readjustment of the boundaries of Assam.

Shri Kamath: Is it clear then, that the matter at issue is cession and not, as the Prime Minister said yesterday, the adjustment of a boundary dispute ?

Dr. Ambedkar: The cession of territory may have been the consequence of a boundary dispute. Where then is the difficulty ?

Shri Kamath: Which is the cause and which is the effect?.....

Dr. Ambedkar: That I do not know. The administrative department will tell you but I cannot see any difficulty there.

Shri R. K. Chaudhuri (Assam)**:** Would you request the Attorney General to be here, Sir ? We are entitled to hear his views.

Mr. Deputy Speaker: The Attorney General is in Australia. I do not think it is necessary to hear the Attorney General. The House has heard the Law Minister. (*Interruptions*). Order, order. Hon. Members have had ample opportunities to speak. Let others also have the opportunity to speak. Merely because an hon. Member who had the right to speak urged a particular point in favour of a particular proposition, another hon. Member who has already spoken cannot have additional time to speak again. That would be endless.

Shri Shiv Charan Lal (Uttar Pradesh)**:** May I ask one question by way of.....

Mr. Deputy Speaker: Not now. Dr. Mookerjee.

Dr. S. P. Mookerjee (West Bengal)**:** While rising to speak on this Bill I would like to state at the beginning that I do not wish to dwell at length on the merits of the Bill. Whether a small tract of territory should be given to Bhutan or not is a question which is not immediately before you. I know that what the Prime Minister said yesterday strengthens the

case of Government and perhaps there may be special reasons why the proposal which Government has made should be implemented. But I take the strongest objection to the extraordinary procedure which is being followed for implementing the wishes of the Government and it took my breath away when I heard the defence of the Law Minister. Of course he said that he was the author of the Constitution—not the sole author.....

Dr. Ambedkar: I did not say I was the author but I was one.....

Dr. S. P. Mookerjee: He had the largest part to play in the framing of the Constitution. That being so one would have expected that he should have been the first person to defend the sacredness or sanctity of the Constitution. I could have understood a speech like the Law Minister's from any other Member, even the Home Minister. But so far as the Law Minister is concerned he should have explained very clearly what the implications of the proposal were.

The Law Minister referred to certain judgments passed by the Supreme Court of America. After my experience last time while we were discussing the Constitution (Amendment) . Bill, I hesitate to accept the hasty recommendations of the Law Minister unless I can verify.....

Dr. Ambedkar: I must protect against this kind of a thing. If my friend is going to challenge a statement that I made then I shall reserve to myself the right to challenge whatever he has stated. I must make it very clear.

Dr. S. P. Mookerjee: The Law Minister is protesting too much.

Dr. Ambedkar : It is not protesting too much, but I heard you said something the other day when I was not present.

Dr. S. P. Mookerjee: You were here, but when I was speaking you had run away.

Dr. Ambedkar: You are not such a formidable man as to make me run away.

Dr. S. P. Mookerjee : So far as Shri Bhim Rao Ambedkar is concerned who can frighten him ?

Dr. Ambedkar: I dont't like these reflections. You have made the statement. I know, I am not here to challenge it but I would.....

Mr. Deputy Speaker: Should the hon. Members exchange words like this ?

Dr. Ambedkar: No, Sir, it is going too far. It is deliberately saying that I have misquoted and misrepresented.

Dr. S. P. Mookerjee: I have not said that.

Dr. Ambedkar: I have been eager enough to allow my friend, Mr. Kamath to have the reference to the book and the pages. I do not like these things. I am treating you with great respect—if you won't do it then I shall descend to your own level.

Dr. S. P. Mookerjee : You have descended to your own level.

Mr. Deputy Speaker: Both are highly respected Members of Parliament. It was not necessary for the hon. Member to say those things about the last version. The Law Minister may have given his opinion but the hon. member has always got the opportunity of reading the relevant judgment himself. All that I can say is that as far as possible, consistent with their own position in the House, and the position of the House itself, they should meet argument by argument. That is my appeal to hon. Members.

Dr. S. P. Mookerjee : I had no desire to wound anybody's feelings. I said I hesitate to accept the hasty recommendations of the Law Minister.

Dr. Ambedkar: There are no recommendations. I said these are the judgments—I quoted the pages.

Mr. Deputy Speaker: Hon. Members are aware that from the same book different persons can interpret differently, and therefore, it was open to the hon. Member, Dr. Mookerjee to read it differently.

Dr. Ambedkar: If he had the judgment before him and after reading it he refers to it, I would have respected it. But to say I have misquoted or misrepresented is going too far.

Dr. S. P. Mookerjee: I never said misquoted.

Dr. Ambedkar: I am not going to allow this kind of a thing.

Dr. S. P. Mookerjee : The point I was developing, Sir, was this. The hon. Minister referred to some case which was dealt with by the American Supreme Court—he did not read out the judgment. So far as the American judgment is concerned it is not relevant to the subject matter that we are discussing here now. The Law Minister referred to certain things which are done by the king in England; the King has prerogative powers by virtue of which he can cede certain territories. That also, I would submit, has no relevance to the topic that is under discussion today. All that we are discussing is this : can Parliament cede any portion of the territory of India without following some specific procedure which is laid down under the Constitution ? Is there any Article in the Constitution which makes a provision for the purpose of allowing Government to cede any portion of the territories within India ? That is the simple question that we have been called upon to consider. Here, Sir, If you look at Articles 2 and 3 you will see what the arrangement was when Part I of the Constitution was enacted.

Mr. Deputy Speaker: Are we to understand that the hon. Member feels that cession of territory is possible under the Constitution but only the procedure under Article 3 has not been followed ?

Dr. S. P. Mookerjee: There is no specific provision in respect of cession of territory under the Constitution, but even there I am prepard to concede that if by reason of a treaty the position arises that a portion of Indian territory is to be ceded, naturally somebody has got to give the final sanction to such a decision and the matter has to come before Parliament. Here you are not only ceding the territory but you are automatically adjusting the boundaries of one of your

existing States and in respect of this matter at any rate there is a specific procedure laid down under the Constitution which you are bound to follow.

Mr. Deputy Speaker: It is claimed it has been followed.

Dr. S. P. Mookerjee: No, Sir.

Dr. Ambedkar: With your permission, Sir, I would like to clear the point in a few sentences because I am very grateful he has put the point very clearly now. The question seems to be, what is the procedure.....

Dr. S. P. Mookerjee: Well, let me finish. I won't speak for long.

Dr. Ambedkar : I am not speaking, I am only explaining.

Dr. S. P. Mookerjee: I thought, Sir, when the Law Minister spoke earlier also, he was explaining.

Mr. Deputy Speaker: If the Hon. Minister feels he can explain a particular point he may do so. I think the procedure has been followed. The President has given his sanction, the resolution has been passed by the Assam Assembly. The recommendation of the President has been printed on the back page of the Bill.

Dr. S. P. Mookerjee: I have seen that. But so far as the provision for ceding out any portion of Indian territory is concerned, that is practically bound by the provisions of Articles 1 and 2 and in such circumstances is it open to Parliament to pass a Bill ceding a portion of Indian territory ?

Mr. Deputy Speaker: That is another matter. It is not one of procedure.

Dr. S. P. Mookerjee : I was referring to both the matters. It is a question of functioning within the Constitution here. If you want to deal with such a case and if you find that your Constitution does not provide for such a contingency—it might have been a mistake ; you might have overlooked it—in whatever way it might have been done, the only thing which you can do is to amend the Constitution and Parliament should then take the necessary power to give effect to it.

As I said at the beginning, I am not worried so much about this particular case. Here it is a small portion of the territory which is proposed to be given to Bhutan. There may be special reasons why you should do so. There are historical reasons why such a step if approved by the Government of India and the people of this country might lead to the creation of better relationship between those people and ourselves.

Mr. Deputy Speaker: It appeared from the earlier portion of the argument of the hon. Member that he was conceding the position that by virtue of entry 14 relating to treaties the power is there. It is only the question of procedure.

Dr. S. P. Mookerjee: What I am prepared to concede is this. If there is war or if a treaty is entered into between two. countries, or if it is decided that a portion of our territory should be ceded or some other portion of territory which is outside India should be included in the Indian territory, there is certainly no bar to the Government of India entering into such a treaty. The whole question is how to implement it, and that is what we are discussing today. Of course, I am not speaking on the merits of the proposal. So far as the implementation goes, there is nothing in the Constitution as it stands today which empowers this Parliament to cede out any portion of the territory which is included within India that is Bharat. It is specific, clear and unambiguous. If it is thought necessary that this particular step should be taken, then what I would suggest is that this Bill should be withdrawn and a necessary amendment of the Constitution . should be made so that the thing may be done properly and constitutionally. In this instance, the territory involved is very small. It really does not matter much. But the question of principle involved is a highly important one and we should not allow even Parliament much less the executive, to be given the power to cede out this territory which is included within the framework of the Constitution unless there is some specific provision made in the Constitution in that behalf and that is strictly followed. So far as the powers of Parliament go, there is no residuary power vesting in Parliament outside the four corners of the Constitution. It is our Holy Book, Bible, Gita or whatever you may call it and you must remain

confined within its four corners. If we find that there is a lacuna which has to be covered, we should not proceed in a manner which may give rise to any feeling of fear or distrust in the minds of any section of the people but we should first amend the Constitution, withdraw this Bill and bring it up again in proper form.

Dr. Ambedkar: May I clear the point ? It seems to me that Dr. Mookerjee's observations have reduced the point to very narrow limits. He concedes, if I understand him correctly, that there is the power of ceding territory under the entries to which I have referred. I believe it is difficult to imagine a case where the cession of territory will not involve the readjustment of the boundary of some province. At least I cannot imagine a case like that. Therefore, the question is one of procedure. If a law has to be made under any of the entries in List I or II of the Seventh Schedule, the ordinary procedure is the procedure of the Bill. Is that not so ? You bring in a Bill, put it through the House in its three stages : the Bill is passed and the thing is complete. With regard to the provisions coming under Article 3, you have got to follow the necessary procedure that has been laid down there. My submission is this. In deciding whether the ordinary procedure as to Bills is applicable to this case or whether the procedure laid down in Article 3 is applicable, we have to make reference to one single point and that is this : what is the main purpose of the Bill ? Is the main purpose of the Bill to readjust the boundaries of Assam or is the main purpose of the Bill to cede territory to Bhutan and make the necessary consequantial adjustments in the boundary of Assam from which this territory is taken ? In a matter of this kind where both aspects are present (and must be present in any cession because cession must necessarily have the consequence of readjustment), my submission is that the procedure to be followed must be the procedure for carrying out the main purpose of the Bill and not the subsidiary or the incidental purpose. Although this Bill has been drafted in a way as to make readjustment of boundaries appear to be the main purpose, the real purpose is to cede the territory. That being so my submission is that the procedure which is prescribed

by the Constitution to effect laws on any of the matters mentioned in the entries to the Seventh Schedule is the correct procedure, and Government has followed the most correct procedure laid down by the Constitution.

Mr. Deputy Speaker: Even if it be an adjustment of boundaries has not the prescribed procedure been followed ?

The Deputy Minister of External Affairs (Dr. Keskar): It has been done.

Dr. Ambedkar: If that is so, then that point also does not stand.

Mr. Deputy Speaker: The procedure has also been followed as laid down in Article 3. I therefore understand Dr. Syama Prasad Mookerjee to say that he does not concede the right of cession under entry 14 and that is why he says that a constitutional amendment is necessary.

Shri Naziruddin Ahmad (West Bangal) **:** *rose*—

Mr. Deputy Speaker: I do not propose allowing hon. Members who have already spoken when this matter was raised as a point of order yesterday to speak again.

***The Minister of Law (Dr. Ambedkar):** I have already made a motion that this Bill be taken into consideration. All that remains for me is to say a few words in order to explain the nature of this particular measure, and the necessity for bringing it forward. The Notary Public is an official who discharges certain functions relating to certain documents which arise out of what are called 'mercantile' transactions. The position with regard to the Notary Public in India is that under the Negotiable Instruments Act the Government of India has got the power to appoint Notaries public in order to deal with the documents which are negotiable instruments under that Act. But there are also other mercantile transactions which create certain other mercantile documents but which are outside the purview of the Notaries Public appointed under the Indian Negotiable Instruments Act. Those Notaries

*P. D. Vol. XIV, 17 August 1951, pp. 832-35.

Public which are outside the Indian. Negotiable Instruments Act are appointed by authorities in Great Britain.

The history of this institution is probably interesting. Originally, the appointment of the Notary Public all over England and perhaps even Europe was made by the Pope. It was an ecclesiastical office and the function of that officer was to deal with eccelesiastical matters, that is to say, if a dispute arose as to the seating arrangement in a particular Church, the dispute was decided by the Notary Public. If a question arose as to whether a person who had died was entitled to a public burial or whether he was to be doomed to what was called a private burial in some unrecognised part of the Church, that matter was also decided by the Notaries Public. Later on, certain commercial duties were also attached to the Notaries Public under which they performed the duties of noting, protesting, or preparing or noting honour or dishonour about these transactions. When the Protestant Revolution took place, the authority of the Pope so far as Great Britain was concerned ended, and it was assumed by the British King and the British King transferred the jurisdiction that he had acquired from the Pope in the matter of the appointment of the Notaries Public to the Archbishop of Canterbury who also became his officer, because under the Protestant Revolution, the State became supreme as against the Church and all the officers of the Church became the officers of the State. The Archbishop had attached to him what was called a Court of Faculty, an officer who dealt with the Church matters to which I have already made some reference and in England all the Notaries Public were appointed by what was called the Court of Faculty under the superintendence of the Archbishop of Centerbury. That body also continued to appoint Notaries Public in India. All that we did was that we cut out a little portion from the authority of the Court of Faculty in England which had acquird this legal jurisdiction to appoint Notaries so far as the Negotiable Instruments Act was concerned.

The position today in India therefore is that a group of Notaries who deal with documents under the Negotiable Instruments Act are appointed by the Government of India

while all other documents which do not come under the Negotiable Instruments Act are dealt with by Notaries who are appointed from England. Our constitution, namely, the India (Consequential Provisions) Act, 1949 and Article 372(1) of the Constitution permitted that any officer who was appointed before the Constitution may continue to exercise that authority, so that notwithstanding the fact that India became independent and notwithstanding the fact that the President got the authority to make appointments of Notaries, by virtue of these two provisions I have quoted, these people still continue to function as Notaries although they were appointed by an authority not subject to the Indian Constitution. It is felt very desirable that this anomaly should be ended and that the right of appointment which is now enjoyed by the Court of Faculty should be discontinued. That is the main purpose of this Bill and I do not think that any Member of Parliament can have any objection to it. On the other hand, I believe that many Members of Parliament might well ask as to why these officers were allowed to function even after the Constitution had come into existence. All I can say is that it is better to be late than never. That is the only justification.

The main clauses of the Bill are these : Clause 3 empowers the Central Government to appoint Notaries with authority to practice as such any where in India. Each State also is empowered to appoint Notaries within its own territory to function within its jurisdiction.

Clauses 4 and 5 say that the Notary will not be entitled to practice unless he gets his name registered and obtains a certificate of practice. He is required to pay a certain fee under the rules. These are prescribed under the authority of Clause 14(2).

Clause 6 deals with the annual publication of the lists of Notaries. The Central Government as well as the State Governments are required to maintain a register of Notaries who have got their names registered.

Clause 7 deals with the seal of the Notary.

Clause 8 deals with the functions of the Notary. They are the normal functions which a Notary is required to perform both under the English Law and practice. They have practically been taken from Halsbury's Laws of England.

Clause 9 prohibits any person from practising as a Notary without a certificate of practice. Persons who are already Notaries have been given one year's time to get themselves registered under this Bill.

Clause 10 is the usual clause dealing with the removal of names from the Register of Notaries, if the Notary has committed any act which is said to disqualify him from holding the post of Notary Public.

Clause 11 provides that any reference to a Notary Public in any other law is purely interpretational and shall be construed as a reference to a Notary entitled to practice under this Act.

Clauses 12 and 13 deal with penalty and congnizance of offences.

Clause 13A is a new clause which has been inserted to validate on a reciprocal basis the Notary's Act done in any foreign country.

This is all that the Bill does and I hope that the House will see its way to grant its accord to my motion.

Mr. Chairman : Motion moved.

> "That the Bill to regulate the profession of Notaries be taken into consideration."

Shri Sidhva (Madhya Pradesh)**:** This is a very simple Bill. I am very glad that the Hon. the Law Minister has given us a very interesting history. I did not know that the Notaries who were appointed in India were appointed by the Archbishop of Canterbury. I thought it was done by the Government of India. This was really a place of news. I think, to several of us—at least I did not know that.

I want to know the meaning of the word "duly qualified". Does it mean duly qualified in law ?

Dr. Ambedkar: Not at all.

Mr. Chairman: That will be governed by rules framed under clause 14, perhaps.

(37)

NOTARIES BILL

***The Minister of Law (Dr. Ambedkar) :** I beg to move for leave to introduce a Bill to regulate the profession of notaries.

Mr. Speaker: The question is :

> "That leave be granted to introduce a Bill to regulate the profession of notaries."

The motion was adopted.

Dr. Ambedkr: I introduce the Bill.

****Pandit Thakur Das Bhargava:** The amendment has not been supplied in today's Order Paper, but with your permission. I beg to move:

> "That the Bill be referred to a Select Comittee consisting of Dr. Bakhshi Tek Chand, Dr. Panjabrao Shamrao Deshmukh, Shri Deshbhandu Gupta, Shri Gokulbhai Daulatram Bhatt, Pandit Mukut Bihari Lal Bhargava, Shri Prabhu Dayal Himatsingka, Shri Arun Chandra Guha, Shri Rohini Kumar Chaudhuri, Shri Banarsi Prasad Jhunjhunwala, Shri R. K. Sidhva, Shri C. Subramaniam, and the Mover, with instructions to report before the 31st August, 1951."

Now, this is also a new institution. I do not know what obtains in the rest of the Provinces or in the States, but so far as I know there is not such an institution like Notaries Public in all other places except perhaps in big towns. I speak subject to correction. There also the work which is assigned to them is only under the Negotiable Instruments Act.

Dr. Ambedkar: No, all. Originally it was only under the Negotiable Instruments Act.

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* P. D., Vol. 10, Part II, 18th April 1951, p. 740.

** P. D., Vol. 14, Part II, 17th August 1951, pp. 836-838

Pandit Thakur Das Bhargava: Are there other powers given to them now ?

Dr. Ambedkar: They will be the Notaries Public who will be doing the work of the Notaries Public outside even the Negotiable Instruments Act.

Pandit Thakur Das Bhargava: Under this Bill. But at present they perform their duties only under the Negotiable Instruments Act.

From a perusal of this Bill, I find that as a matter of fact a totally new institution is sought to be brought about in India now. The history of this institution is very interesting; it arose out of an ancient English statue—I did not know all this history...

Dr. Ambedkar: It is I that gave that history.

Pandit Thakur Das Bhargava: There is a reference to the Archbishop and then the Master of Faculties in England but all this is Jargon to us and we do not understand it. What I understand is this. Today in the whole of India the lawyers execute instruments—a sale deed, a mortgage deed, a gift deed—and all this is done either by petition—writers or by lawyers. I can speak with authority so far as Punjab is concerned and there every lawyer is competent to write out a deed. Where petition-writers are there, they do this business and lawyers generally do not do it. By law they are authorized to do it. So far as the Oath Commissioners are concerned, they attest documents which are produced in courts. There are certain provisions in the Civil Procedure Code according to which affidavits have got to be attested and they are to be produced in courts. Besides this, there are many other things which have got to be attested by these Oath Commissioners and whenever a person wants to create an alibi in a criminal case, then also the certificates of these Oath Commissioners are utilized for the purpose of getting a document or two attested on a particular date.

Dr. Ambedkar: I did not know that sort of thing happened in the Punjab.

Pandit Thakur Das Bhargava : If my hon. friend made an inquiry about the rest of India, he will be disillusioned to find that Punjab is not an exception. I do not know what will be the fate of those legal practitioners who are appointed Notaries Public. Will they be allowed to practise also ?

Shri Sidhva: They are now practising.

Dr. Ambedkar: Yes, they do.

Pandit Thakur Das Bhargava: If the kind of work envisaged in the Bill is to be put on them I think the Notary Public should keep a regular office.

Dr. Ambedkar: They have; each Notary Public has an office.

***Mr. Chairman:** May I suggest, if you look at sub-clause (2) of clause 8, it is provided that no act specified in sub-section (*1*) shall be deemed to be a notarial act except when it is done by a Notary under his signature and official seal. I think that would go a long way to see that this has evidentiary value of the highest order.

Pandit Thakur Das Bhargava: It means that so far as his seal and signature are concerned, they give some evidentiary value to the documents prepared. But, if you look into this Bill, there is no prohibition in the matter of appointment of Notary Public by the Government. Twenty people may be appointed in one district. They can appoint any number. This is just like the honorary magistrates affair.

Shri Sidhva: No ; not like that.

Pandit Thakur Das Bhargava: You are speaking with experience ; I am speaking without experience. I really want to know.

Dr. Ambedkar: You are expressing the fear of the unknown.

Pandit Thakur Das Bhargava : That is perfectly right. I do not want that an institution like this which is sought to be established in the whole of India should be accepted

*P. D. Vol. 14, Part II, 17th August 1951, pp. 840-41

by us without knowing what it is. I therefore humbly request Dr. Ambedkar to explain these things in the Select Committee.

Dr. Ambedkar: I could explain these things in the House itself.

Pandit Thakur Das Bhargava: He wants to bring in a new institution which is foreign to this land, which we had not got for all these years.

Shri Sidhva: It is not a new thing; it is existing in the port towns.

Pandit Thakur Das Bhargava: That is for negotiable instruments. Dr. Ambedkar says so and I accept his versions as better than yours.

Shri Sidhva: Notary Public exists today.

Pandit Thakur Das Bhargava: I have myself submitted that in Madras, Bombay and Calcutta and in some other places they do exist.

Dr. Ambedkar : Wherever there is the Negotiable Instruments Act in force, the Notary Public is there. The Negotiable Instruments Act applies throughout the whole of India, except, I suppose in some Part B States. In the Part A and Part C States, the Negotiable Instruments Act is in force.

Pandit Thakur Das Bhargava: As regards the Negotiable Instruments Act, I have no quarrel. I know it applies to the whole of India. But, we do not know how this measure will affect the public. There was the system of honorary magistrates or some other persons who used to do some work all over the land. Here you want to do something covering the whole of the country, something which is quite new. So far as patronage is concerned, the appointing authority will be the State Governments and the Central Government, and so it is there. And then, some qualifications have been prescribed. But we do not know how these offices will work. They will execute documents. But will they keep copies of the documents ? Unless and until you make provisions for keeping copies, the fears which I have given expression to now will all arise. It is not as if I want to raise any bogey. The fear is quite real. And I am sure lawyers all over the land will not like this measure.

Dr. Ambedkar: Why not ? This will afford them a supplementary occupation.

Pandit Thakur Das Bhargava: Now every lawyer is competent to execute documents and people go to them for executing these documents. But, if you make these Notaries execute the documents, then you take away that much of jurisdiction from the lawyers. This is not a small matter which should be looked at from only the lawyers point of view, what happens to the general public ? A person requiring a document to be executed will have to come to a big city and suppose the Notary charges a high fee, he will have to pay it. This here is a new tiling you are introducing. At least let us know the full implication of it. To bring in such a measure now and get it rushed through is not fair to us. If I understand it and am convinced that it is for the good of the people, then I will certainly support it. But till then, unless I am convinced, I will not touch it with a pair of tongs even. Let us first of all know whether it will be useful to the public or not. From the speech of the hon. Member I could not gather much.

Mr. Chairman : Will the hon. Member kindly resume his seat ? It is now 6-45 p.m. and further discussion on this motion will follow tomorrow.

***Mr. Deputy Speaker :** Now we proceed with the further consideration of the following motion moved by Dr. Ambedkar, on the 9th August, 1951:

> "That the Bill to regulate the profession of notaries, be taken into consideration."

Pandit Thakur Das Bargava (Punjab)**:** I was submitting to the House yesterday various reasons why this Bill ought to be referred to a Select Committee. It is a well-known fact that in some courts and big cities .....

The Minister of Law (Dr. Ambedkar): May I make a statement with a view to economise the time of the House ?

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*P. D., Vol. 14, Part II, 18th August 1951, pp. 853-55.

My Friend Pandit Thakur Das Bhargava and I believe Dr. Deshmukh want to refer this Bill to a Select Committee. So far as what my friend Pandit Thakur Das Bhargava said yesterday is concerned. I was not inclined to accept his suggestion, because I did not think that he had advanced any grounds of any substance. But in so far as he pleaded that this is rather a strange measure so far as he is concerned and he might like to have more time to address himself to the examination of the provisions here, to understand the motives behind it, and so on. Out of pure compassion, I am prepared to accept his suggestion.

Dr. Deshmukh (Madhya Pradesh)**:** Why not accept the motion for reference to the Select Committee ?

Dr. Ambedkar: I want to save the time of the House. I am quite prepared to explain the provisions of the Bill if that would satisfy him and he would withdraw his motion. But I think that would be waste of time, because he will persist. I am prepared to accept the motion for reference to the Select Committee.

Mr. Deputy Speaker: Whatever the reasons be, the Hon. Minister is willing to accept the motion to the Select Committee. So I think not much of debate need go on now.

Pandit Thakur Das Bhargava: So far as this qsuestion of compassion is concerned .....

Mr. Deputy Speaker: No question of compassion..

Pandit Thakur Das Bhargava: Then is it passion ? I would only submit that the reasons advanced were so cogent that they moved even Dr. Ambedkar to accept the motion for reference to the Select Committee. I have as much regard for the value of the time of the House as anyone else; but I may point out that in this want of knowledge about this matter, I am not alone. There are many who want to get more knowledge about this subject.

Dr. Ambedkar: There is no catch in it.

Pandit Thakur Das Bhargava: There may be no catch ; but at the same time, we must be satisfied that as a matter

of fact there is need for the measure. I am grateful to Dr. Ambekar for having accepted this motion of mine, though for reasons which according to him are based on various other considerations. But according to me, it was accepted because the arguments are very convincing.

Dr. Ambedkar: The only request I would make of the hon. Member is to change the date to some day after the 5th of September, because I will be out of station for two or three days.

Pandit Thakur Das Bhargava: Any date suitable to the Hon. Minister, I am willing to accept.

Dr. Deshmukh: Sir .....

Dr. Ambedkar: Why make any speech now ?

Mr. Deputy Speaker: It is a sort of technical subject and it is better it goes to the Select Committee straightaway.

Dr. Deshmukh: But I gave notice of the motion and I will take not more than two minutes.

Mr. Deputy Speaker: Shall we keep the date as .....

Dr. Ambedkar: I suggest the 7th of September.

Mr. Deputy Speaker: Amendment moved:

> "That the Bill be referred to a Select Committee consisting of Dr. Bakshi Tek Chand, Dr. Punjabrao Shamrao Deshmukh, Shri Deshbandhu Gupta, Shri Gokulbhai Daulatram Bhatt, Pandit Mukut Bihari Lal Bhargava, Shri Prabhu Dayal Himatsingka, Shri Arun Chandraguha, Shri Rohini Kumar Chaudhuri, Shri Banarsi Prasad Jhunjhunwala, Shri R. K. Sidhva, Shri C. Subramaniam, and the Mover, with instructions to report before the 7th September 1951."

Dr. Deshmukh is a member of the Select Committee and following the previous rule, he will try to throw light on the Bill in the Select Committee and not speak here. Therefore I put the question straight to the House now.

The motion was adopted.

(38)

* RESOLUTION REGARDING NECESSITY FOR AN ALL INDIA BAR

Shri Syamnandan Sahaya (Bihar)**:** May I make a submission. Sir ? The next Resolution stands in the name of Pandit M. B. Bhargava, but there is another motion in my name—I do not propose to take more than five minutes .....

Some Hon. Members: No, no.

Shri Syamnandan Sahaya (Bihar)**:** .....and I think the Hon. Minister also is not likely to take more than five minutes. So we might take it first and dispose it of.

The Minister of Law (Dr. Ambedkar): I can dispose of this motion in one minute which you cannot do.

Mr. Deputy Speaker: It is for the House to consider. The Hon. Minister wants to say that effect has been given to the substantive portion of the Resolution. The Resolution is already there next in priority. There is nothing more to be done about it than merely making a statement on either side.

Dr. Ambedkar: With regard to the other Resolution my position is the same. I have practically taken steps to appoint a Committee and I was going to tell my hon. Friend that it would be a waste of time for the House and for him to discuss that matter, if I am allowed to make a statement. I think he need not make a statement at all; he may just say, "I move".

Mr. Deputy Speaker: Yes, Pandit M. B. Bhargava may formally move his Resolution.

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*P. D., Vol. 14, Part II, 18th August 1951, pp. 1205-09.

Pandit M. B. Bhargava (Ajmer)**:** I beg to move:

> "This House is of opinion that an independent and autonomous Bar on an all India basis is necessary in the interest of the public and legal profession, and that Government should undertake legislation on the subject at an early date."

There is an amendment by Shri S. N. Das.

Shri S. N. Das (Bihar): I would like to hear the statement of the hon. Minister before I move my amendment, Sir.

Mr. Deputy Speaker: The Hon. Minister will make a statement with respect both to the Resolution and the amendment. Therefore the amendment may be moved.

Shri S. N. Das: I beg to move:

> For the original Resolution, substitute the following:
>
> "This House is of opinion that the time has now come when the Government of India should appoint a Committee to inquire into the working of laws pertaining to legal profession, in force in different States, with a view to ascertain the necessity, desirability and feasibility of an independent and autonomous Bar on an all India basis."

Mr. Deputy Speaker: Amendment moved :

> "This House is of opinion that the time has now come when the Government of India should appoint a Committee to inquire into the working of laws pertaining to legal profession, in force in different States, with a view to ascertain the necessity, desirability and feasibility of an independent and automomous Bar on an all India basis."

Dr. Ambedkar: It has been the desire of Members of Parliament who represent the legal profession to this House to have, as they call it an independent, autonomous and all India Bar. Personally I have not had a complete and an adequate idea of what exactly Members mean when they say that they want an independent and an autonomous Bar. But I do not think it is necessary at this moment to enter into any discussion as to what an independent and an autonomous Bar may be, and I am therefore of opinion that it is desirable, in order that this matter may be considered once and for all, to appoint a Committee to investigate into this matter.

Having considered this matter, I have come to the conclusion that there are probably six questions that require to be considered so far as the Bar in India is concerned. One is the desirability and feasibility of a completely unified Bar for the whole of India, secondly, the continuance or abolition of the dual system of counsel and solicitor or agent which obtains in the Supreme Court and in the High Courts at Bombay and Calcutta; thirdly, the continuance or abolition of different classes of legal practitioners like advocates of the Supreme Court, advocates of the various High Courts, district court pleaders, *mukhtars* entitled to practice in criminal courts only, revenue agents, incom-tax practitioners etc.; fourthly, the desirability and feasibility of establishing a single Bar Council either for the whole of India or for each State separately; fifthly, the establishment of a separate Bar Council for the Supreme Court; and, last, the consolidation and revision of the various enactments, Central as well as State, relating to the legal practitioners.

I believe I have exhausted all the questions that have to be considered in order to give effect to the purport of the motion which my friend, Mr. Mukut Beharilal has moved just now. As I said, I had already decided to appoint a Committee and I have been in correspondence with the Supreme Court in order to ascertain whether the Supreme Court would be prepared to spare the services of one of their Judges to act as the Chairman of this Committee. Unfortunately, as hon. Members know, the Chief Justice of the Supreme Court is out of India for the moment and it has not been possible for me to get his final reply. He will be coming, I am told, some time early next month, and as soon as he comes and as soon as he lets me know as to which particular Judge he would be in a position to spare to act as the Chairman of this Committee, the Committee will be appointed and will begin to function. I also propose to appoint the Attorney-General, the Advocate-General of one major State, a retired High Court Judge, and one or two Members of Parliament who have been taking keen interest in the subject to constitute this Committee.

Shri Kamath (Madhya Pradesh)**:** Which major State ?

Dr. Ambedkar: Any of the major States—I have not decided which. By major State I mean a Part A State. I also propose, although I have not decided as yet, that we should have one member drawn from what we call Part B State, particularly Rajasthan and that area where the system that is operating is not quite familiar to us, at any rate it is not quite familiar to me, and I would therefore like to have one representative from that area to be on the Committee to give us information as to how exactly the bar functions in that area. I would request the Committee to make a report with about three or four months so that after the report is received and considered Parliament will have a point of legislation brought before it for a consideration. I hope this will satisfy my hon. friend and he will withdraw the Resolution.

Shri Sidhva (Madhya Pradesh) **:** I would suggest three Members of Parliament with judicial knowledge.

Dr. Ambedkar: I am prepared to include Mr. Sidhva if he likes. He should have a non-legal Member also because he would bring in common sense.

Pandit M.B. Bhargava : Will it be open to this Committee to specify the powers, functions and constitution of these Bar Councils and their relation *inter se* with the Supreme Court and the High Courts ?

Dr. Ambedkar: Yes.

Pandit M. B. Bhargava: May I know whether the disciplinary jurisdiction will vest in these Councils or only in the High Courts ?

Dr. Ambedkar : I have already laid before the House what I regard as special problems which create difficulties for the moment. Incidental questions will undoubtedly be considered.

An Hon. Member: The Committee will give its suggestions.

Mr. Deputy Speaker: I believe an informal Committee also sat on this question and made some recommendations to the hon. Minister.

Dr. Ambedkar: I have no recollection. May be that is so.

Mr. Deputy Speaker : In view of the statement made by the Hon. Minister I do not think the resolution is pressed. Has the mover the permission of the House to withdraw his resolution ?

The resolution was by leave, withdrawn.

Mr. Deputy Speaker: The amendments automatically go. Next resolution.

(39)

CONDUCT OF A MEMBER OF PARLIAMENT

***The Minister of Home Affairs (Shri Rajagopalachari):**

Of course, the Law Minister will speak with greater authority. The article that is referred to as well as any other rule is conceived and put down in a form of words for application in the ordinary course. There are, however, certain general principles which guide every procedure which has the quality of a judicial procedure. Any law or any rule must be interpreted and applied so that the law itself may not be circumvented. Here is a case where proceedings were started in order to enquire into the conduct of a Member. It appears to me a matter of fundamental general principle that the object and procedure of Parliament cannot be circumvented by a technical act like this. Therein comes what Mr. Santhanam points out that the words "as soon as" is not there automatically to bring about a vacancy. Apart from any technical defect in the matter, the general principle. I submit, is important that the law is intended for the ends of law and not to be circumvented.

Mr. Deputy Speaker: Let us hear the Hon. Law Minister.

The Minister of Law (Dr. Ambedkar): The point has come upon me quite suddenly and I am therefore only expressing, if I may say so, my first impressions, after reading article 101, clause (3). Vacation of a seat may take place for the reasons which have been specified in Articles 101 and 102. Article 101, clause (3) sub-clause (*b*) refers to resignation by a Member of Parliament; the clause under which the hon. Member whose conduct is the subject-matter of investigation has acted. There is also another article which deals with disqualifications of Members for being chosen and for being a Member. If a Member falls under any of the conditions

* P. D., Vol. 14, 27th August 1951, pp. 3247-48.

mentioned in Article 102, he also vacates his seat. The question that arises for consideration is whether Articles 101 and 102 are exhaustive or whether there is any other article in the Constitution which also may operate independently although the case does not fall under articles 101 and 102. My submission is this, that Article 105(3) is an additional power, given to Parliament to bring about a vacancy of a seat and is not concluded by anything contained in article 101 and article 102.

This is a case where a Member has committed a breach of privilege and when the House takes it upon itself to come to a finding that the breach of privilege has been committed and that the case is so serious that an expulsion may be ordered, the House can order the expulsion under article 105(3). The House is competent to do so, because of what is stated in Article 105(3), where it is stated that the powers etc. of Parliament shall be those of the House of Commons, and any reference to May's Parliamentary Practic. I think, will show that expulsion is one of the powers of the House of Commons and one of the powers that it possesses for punishing a breach of privilege. Therefore the powers to bring about a vacancy in a seat by ordering an expulsion is there under articl 105(3) and that is in no way abrogated by the provisions contained in articles 101 and 102. The only other question that arises for consideration is this, whether the proceedings that have already been started against the hon. Member under provisions of article 105 by a specific order of Parliament can, so to say, come to an end if the Member chooses to resign under the provisions of Article 101. My humble submission is that an hon. Member cannot bring about a stoppage of the proceedings under article 105 by resorting to Article 101. These proceedings must continue, notwithstanding the fact that the hon. Member has brought about his resignation under Article 101, and in fact it is not possible for Parliament to inflict a direct punishment upon him by virtue of their proceedings. Therefore, it may still be open for Parliament, notwithstanding the resignation of the hon. Member to proceed with the proceedings which have been already started under Article 105.

Shri Santhanam: I would just add one more word to what the Hon. Law Minister has said. The only construction of the word "resignation" is that the resignation should be formally notified by the authority concerned before it becomes operative. Otherwise all kinds of complications will arise. Suppose a letter is delivered at your house and you are not there. And you come after, say, four days. Can it be taken that the day it was delivered at your house it becomes operative ? In such cases the real construction is the one I have given.

Mr. Deputy Speaker : But we are not on that point.

***Pandit Maitra** (West Bengal)**:** Sir, I want you and also the hon. Members of the House to very carefully bear in mind that for the action we are taking now there is no precedent. A point of Constitutional law has been raised and it is of very great importance. We have no precedent whatsoever to go upon, either in May's Parliamentary Practice .....

Dr. Ambedkar: Oh, yes.

Pandit Maitra: I know May's Parliamentary Practice lays down certain forms of penalty, *e.g.,* censure, admonition, putting into jail etc.—all these things are nothing new. The point that has been raised by my hon. Friend, the Home Minister, if it is logically followed up, comes to this : that once a proceeding is started it can never be terminated. Is that the legal position ? It is coming to this, that if the hon. Member had died last night—I am taking a hypothetical case—would you proceed with it ? In giving its decision I am asking the Chair to bear these things in mind. It is a Constitutional point. The point is whether a Member *ipso facto* vacates the seat as soon as he delivers his letter of resignation to the Chair. I do not agree with my hon. Friend Mr. Santhanam that there should be a time-lag between the presentation of the resignation and its acceptance ; nowhere in the Constitution is it provided that it should be accepted or that you may or may not accept it. The law provides, the Constitution provides that the

* P. D., Vol. 14, Part II, 24th September 1951, pp. 3251-54.

moment one delivers in writing his resignation to you in his own hand it is effective. And in this case he has delivered his letter of resignation in person to you, Sir, presiding over this House. There is nowhere provided in the Constitution that there should be a time-lag. Therefore, the question that would arise is whether or not when an hon. Member delivers his resignation on the floor of parliament, into the hands of the Chair, he vacates his seat forthwith. If he does vacate his seat, wherein lies the scope for further action on this motion ? That is a matter to be considered. I am not going to criticise your ruling (*Interruption*). Of course, my friend might sit in the Chair, but at the moment I do not accept his interpretation. Sir, we have closely to apply our mind because we are laying down a precedent for future guidance. I am interested from that point of view, not from the point of view of the merit of the case. The Parliamentary Committee has gone into considerable detail, devoting much time and considerable energy to this matter. With what object? In order that this whole question may be investigated, thrashed out and decided. The hon. Member having made a statement straightaway tenders his resignation and leaves the House. The question is whether you take this stand that once a proceeding has been set in motion it can never be interrupted ; or whether if due to any voluntary act of the person concerned, or if by reason of accident or death that man is removed from the scene the proceedings are to be continued. This is a very important matter to be carefully considered before you give your ruling. You are laying down for the first time in the history of this Parliament a precedent which will be the guide for the future.

Dr. Ambedkar: May I add a word or two with your permission, to what I stated, because I feel that probably my statement has not been quite complete as it should have been. In view of the fact that my hon. Friend Pandit Maitra has raised this question. I think it is desirable to have our mind clear about this matter. If my hon. Friend will forgive me, I will put the matter in a somewhat technically legal fashion, and it is this. When a Member has been charged with a breach of privilege and before the proceedings have been concluded he resigns, is it a case that Parliament has lost its jurisdiction over him because he has resigned ? That I think is the

question which we have to consider and which is the question which my hon. Friend has raised, although not in those technical terms. The answer to that question is this, that the jurisdiction of Parliament for punishing people or taking proceedings against people for contempt—this is a case of contempt—is not confined to Members of Parliament, but it also extends to the members of the public who have committed contempts of the Parliament and I shall read a little passage which I have bodily taken from "May":

> "The penal jurisdiction of the Houses is not confined to their own Members nor to offences committed in their immediate presence, but extends to all contempts of the houses whether committed by Members or by persons who are not Members, irrespective of whether the offence is committed within the house or beyond its walls."

Therefore, the jurisdiction of parliament to protect itself against contempt which is one aspect of the breach of privilege, is not confined to Members of Parliament. It extends to all citizens. No citizen shall commit any act which would amount to contempt of the privilege of the House. Therefore, assuming for the purposes of argument that the resignation of Shri Mudgal which has been tendered to you now becomes effective immediately, nonetheless my submission is that the jurisdiction of this house to proceed against him continues. He cannot escape it. What form the punishment may take is a different matter which may be considered when we actually come to that. If the contention of my hon. Friend Pandit Maitra is that by submitting your resignation you escape the jurisdiction of Parliament, then I think that it is absolutely wrong.

Pandit Maitra: I put it in a different way.

Dr. Ambedkar: I have put it in a way which is more intelligible.

Pandit Maitra : Once an action is set in motion, it cannot be anybody's case that it can never be interrupted.

Dr. Ambedkar: So long as the jurisdiction exists, the action may continue.

Sardar B. S. Man : On a point of order. The motion which is being discussed was permissible when it was introduced but now, due to subsequent happenings, it has become inadmissible. I want your ruling on this. You will see that the motion specifically says:

> "That this House, having considered the Report of the Committee appointed on the 8th June 1951 to investigate into the conduct of Shri H. G. Mudgal, Member of Parliament..."

So, the question is not one of jurisdiction of parliament. We are discussing the conduct of a "Member of Parliament" and Shri Mudgal is no longer a "Member of Parliament". Therefore, my contention is that the motion was admissible to start with, but due to subsequent happenings it has become in the meantime inadmissible and we can now no longer proceed with the discussion on this motion.

Shri Rajagopalachari: The more we argue in this manner the more clear it becomes to my mind that circumvention cannot be permitted. The terms and manner in which points are taken show that this is nothing but circumvention. Continuing what Dr. Ambedkar said, it must be remembered that punishments are additional in "May". It says :

> "In the case of contempts committed against the house of Commons by Members two other penalties are available..."

Expulsion is not the only penalty.

> " ...normally suspension from the service of the house and expulsion..."

Expulsion is an additional penalty available against Members, apart from any kind of punishment which the House is competent to pass against anyone who is guilty of contempt. Now that expulsion may, in the opinion of some Members, become impossible, because he has ceased to be a member, the house will have to consider other forms of punishment. The guilt and proceedings cannot be terminated by an act of the person who is charged.

***Mr. Deputy Speaker:** Let us hear the Law Minister.

The Minister of Law (Dr. Ambedkar): The amendment moved by my friend. Mr. Naziruddin Ahmad has really nothing to do with the resignation by Mr. Mudgal. His amendment had been submitted long before the resignation.

Shri Naziruddin Ahmad: I would not have moved it. I had already decided not to move it and I gave expression to that view privately to the Government whip ; but I moved it simply because of this new contingency. When I tabled the amendment it was under a mistaken impression that the house had no jurisdiction, but later on I found that the house had full jurisdiction and I decided not to move it. Later on, in view of this contingency of resignation I thought this might be relevant, though at the time when I tabled the amendment there was no such purpose.

Dr. Ambedkar: I do not understand the motives and purposes of my hon. Friend.

Shri Naziruddin Ahmad : No, it is difficult some times.

Dr. Ambedkar: But the fact remains that the notice of the amendment was given long before the resignation of Mr. Mudgal and the purpose of the amendment undoubtedly was to soften the punishment that was proposed in the original motion that was moved by the Hon. Prime Minister. The question that has now arisen is this : whether in view of the resignation of Mr. Mudgal the motion as moved by the Hon. Prime Minister could be carried out in its original form or whether any subsequent amendment is necessary. The whole question seems to me to hang on the other issue, namely whether the resignation of Mr. Mudgal is in order so that it could be accepted as resignation and take effect immediately. My submission to you, Sir, is that the act of resignation must be a simple act of resignation without expressing either the grounds for resignation or casting any aspersions on the House as to why the hon. Member is resigning. When the question was last raised you were good enough to say that

*P. D., Vol. 14, Part II, 25th September 1951, pp. 3271-75.

it was open to you to accept the resignation subject to the fact that certain words and phrases used by Mr. Mudgal could be expunged and the resignation made proper as a result of this expunction. My submission to you, Sir, is this. No doubt it is open to the Speaker or the Deputy Speaker or for that matter anyone sitting in the Chair to expunge any part of the debate which he thinks is defamatory, indecent or unparliamentary or undignified. But the point that I wish to submit is this, that the authority of the Speaker to expunge any part of the record relates only to anything said in the course of the debate. I should like to read Rule 176 of the Rules of Procedure. Rule 176 deals with report of proceedings. Rule 176A deals with expungment of matter and says:

10-00 A.M.

> "If the Speaker is of opinion that a word or words has or have been used in debate which is or are defamatory, or indecent, or unparliamentary, or undignified, he may in his discretion order that such word or words be expunged from the proceedings of the house."

As you will see, this rule is confined to anything said in the course of the debate. I submit with all respect that the resignation tendered by Shri Mudgal can by no stretch of the meaning of the word be regarded as anything done in the course of the debate. It therefore stands quite outside the proceedings of the House and therefore there is no power in the Speaker to expunge the words which admittedly both (I believe) in the opinion of the house as well as in the opinion of the Government are such that they are not liable to be expunged on the grounds mentioned in Rule 176-A. Therefore, Rule 176-A would not permit the Chair to apply the provisions contained therein to the application for resignation by Shri Mudgal. Therefore, the application must be treated as it stands without any kind of expungment and my submission is that the application should not be treated as an application for resignation (*Interruption.*)

Pandit Kunzru (Uttar Pradesh)**:** On a point of order.

Dr. Ambedkar: I have not finished.

Mr. Deputy Speaker: He is rising to a point of order. Let us hear him first.

Pandit Kunzru : You ruled yesterday, Sir, that your final opinion was that the resignation had become effective. Is that point open to discussion now ?

Dr. Ambedkar: I do not know.

Pandit Kunzru : The Deputy Speaker said so yesterday.

Dr. Ambedkar: It was not final, so far as I remember.

Pandit Maitra (West Bengal)**:** Sir, you said yesterday that the operative portion of the motion should be kept in abeyance. That was your ruling and that was all that you said. The point raised by me was whether or not, as soon as Shri Mudgal's resignation was tendered and delivered to you, he vacated his seat in the House. That was the main point raised and as far as I could gather from Pandit Kunzru you were earlier of the same opinion that the resignation was effective.

Dr. Ambedkar: He said 'subject to consideration'.

Pandit Kunzru: I think the record will show it.

The Minister of Home Affairs (Shri Rajagopalachari): I think, Sir and the record will show it that you definitely said that you will take time to consider.

Pandit Kunzru: Anyway, the point that you were to consider was whether the motion moved by the Prime Minister could be taken up by the house without any amendment or whether any amendment should be moved and what further action could be taken. But so far as the resignation itself was concerned, you drew attention to article 101 and said that you had no doubt in your mind that the resignation was final and had become effective.

An Hon. Member: No, Sir.

Mr. Deputy Speaker: I shall read from the record. This is what happened:

Mr. Deputy Speaker: I have heard sufficient. I have already told the house that so far as the operative part of it is concerned, what action has to be taken is a matter which must be considered at leisure. I will consider that matter. As

I already referred to that portion of May's Parliamentary Practice, expulsion of a Member or suspending him is an *additional* remedy because he is a Member of Parliament. Anybody inside or outside may commit a contemt of the House. Merely because he is a member we have more jurisdiction over him than over the other person. So far as the other person, that is the outsider, is concerned, in the very nature of things we cannot expel or suspend him because he is not a Member. Therefore, all the same, whether one is a Member or an outsider one may commit a contempt of the house. It is only so far as the remedy is concerned that in the altered circumstances that remedy may have to be altered. But we do not come out of the seizin of this motion that has been moved already. When it was originally quite in order. I do not think by a unilateral resignation or withdrawal from the house all the further proceedings can be terminated.

Regarding the other matter I shall consider it at leisure. Whoever wanted to speak now, let him not be under the impression that I will not hear. It is not on the floor of the House that I need hear him. He may communicate his opinion to me.

Pandit Maitra: On what ? We are not interested in the merits.

Mr. Deputy Speaker: All the matters: when the resignation takes effect; merely because the Member resigns, when his conduct has been brought to the notice of the House, whether by his mere resignation this House loses its jurisdiction—when, particularly, it has jurisdiction even with respect to persons who are not Members of this House if they commit a contempt of the House. That is a point which hon. Members have to note. If a person committed contempt of the House outside, there is no question of resignation. The House will still not stultify itself but proceed against him. Whether the position is changed by mere resignation is a matter which we have to consider. At present I do not think it alters the position except in regard to the remedial portion, that is as to what remedy has to be applied.

***Khwaja Inait Ullah** (Bihar)**:** Is Mr. Mudgal now a Member of the house or not ?

Mr. Deputy Speaker: That is exactly what we are deciding. My view was that he is no longer a Member. I am prepared to hear any arguments to show that he continues to be a Member, and therefore the operative portion also holds good.

So far as the earlier portion is concerned, I have not seen any precedents to the contrary that once this House is seized of the matter of contempt, merely by a unilateral act of the other person, it will lose its jurisdiction. So far as the operative portion is concerned, if he has already resigned there is no question of expulsion. If he has not resigned the question of expulsion comes in. Therefore it is a narrow point as to how far the oprative portion can be passed by this house. I would like to hear the Hon. the Law Minister and also any other hon. Member who would like to speak on this matter.

Dr. Ambedkar: So far, Sir, I have submitted that it will not be open to make the resignation valid by expunging certain portions, because under rule 176A the power to expunge is confined only to the proceedings and to the debates. The letter of resignation does not form part of the debate and proceedings.

My second submission is of a totally different sort and it is this. When a question arises as to the propriety of a resignation, who is the authority to decide it ? My submission is that when any such question arises, the authority to decide it is the house itself. You will allow me, Sir, to refer to a speech which I delivered in the Constituent Assembly in this very question on an amendment moved by Mr. Kamath. I said that as a matter of fact the resignation is submitted to Parliament, because the purpose of resignation is to dissociate himself from the body, namely the Parliament to which he was elected. The Speaker or the Deputy Speaker is merely a channel of communication to the House. I said in the course of that debate that although theoretically the resignation is to the collective body of people called Parliament, it would

*P. D., Vol. 14, Part II, 25th September 1951, pp. 3277-79

be quite impossible for any Member who wanted to resign to send his resignation to the 292 or 295 Members of the House. Therefore, so far as the channel of communicating his wishes that he wants to dissociate himself from Parliament is concerned, to that extent the Speaker is the person to whom the resignation is to be submitted. But if a question were to arise as to whether the resignation was in valid form or not, the matter I think has to be decided by the House itself.

Pandit Maitra : Where is it provided in the Constitution ? Everything must be provided in the Constitution. Please do not forget that you have a written Constitution for this country.

Dr. Ambedkar: Therefore, my submission is this. If certain portions of the resignation cannot be expunged and they must stand part of the letter, and a question is raised whether the letter of resignation in its original form is valid or not, I think it is the House which will be called upon to decide whether Mr. Mudgal's resignation is valid or not. These are the two submissions that I wish to make with regard to the point, that Mr. Mudgal's resignation is valid and has become effective so that the last portion of the motion moved by the Prime Minister has become infructuous. That is the relevancy of the whole thing. All that we have to consider is this : whether the last portion of the motion moved by the Hon. the Prime Minister has been made infructuous by reason of the resignation of Mr. Mudgal, because it would not be proper for the House to proceed to do something to which it cannot give any legal effect. My submission is this that in view of the fact that Mr. Mudgal's resignation is not a valid resignation. Mr. Mudgal still continues to be a Member of the house and the last portion of the motion moved by the Hon. the prime Minister can be made effective so far as Mr. Mudgal is concerned.

Mr. Deputy Speaker : We will assume an hon. member tenders his resignation—it is not the case of Mr. Mudgal— and subsequently after a few moments he writes another letter to the Chair saying that he wishes to withdraw it. Is there provision for withdrawal ? Can I allow him to sit and vote?

Dr. Ambedkar: No: unless the first matter is disposed of.

Pandit Maitra: Disposed of in this case simply means submission of the resignation to the Chairman or Speaker. Nothing else is contemplated in the Constitution.

Mr. Deputy Speaker : Is there any form prescribed in the Constitution for the letter of resignation ?

Dr. Ambedkar: I do not think there is.

(40)

SELECT COMMITTEE MEETINGS

***The Minister of Law (Dr. Ambedkar):** I beg to report under sub-rule (3) of rule 65 that the Select Committee appointed by the House to consider the Notaries Bill has failed to meet successively on two days.

Mr. Deputy Speaker: The Hon. Minister has merely intimated the fact—it may be followed up by any concrete motion that he may make.

Dr. Ambedkar: For the moment I merely propose to report as required by sub-rule (3) of rule 65. It is for the House to decide whether the house will discharge the Select Committee which has been appointed and proceed.

Mr. Deputy Speaker : May I ask any hon. Member in the Select Committee to state what exactly is the position ?

Pandit Thakur Das Bhargava (Punjab)**:** I am one of the members of the Select Committee.....

Dr. Ambedkar: I should like to say that I do not cast any aspersion on the members of the Select Committee for their failure to meet because I am very well aware that they are engaged in many other Select Committes which are also meeting simultaneously, but since the rule casts upon the chairman of the Select Committee the responsibility to report to this house I am making this formal motion to bring the matter to the notice of the House.

Pandit Thakur Das Bhargava: I was submitting that so far as this Select Committee is concerned, its meetings were held at such time that Members could not possibly attend them. We are Members of several Select Committees and we have to make a choice as to which Comittee to attend. Even yesterday, I had some amendments to move to this Financial

*P. D., Vol. 14, Part II, 28th September 1951, pp. 2617-18.

Corporations Bill, but because I was engaged on another Committee I could not be present in the House and I took your permission for that. I have since understood that those amendments were not allowed to be moved which you were pleased to tell me would be allowed. So, it is happening like this—Members of the Select Committee are not to blame.

Dr. Ambedkar: I am not blaming.

Pandit Thakur Das Bhargava: I would rather, under these circumstances, beg of Dr. Ambedkar to kindly give up this Bill. This Bill is not important—it does not require.....

Dr. Ambedkar: I am prepared to give every Bill that is standing in my name.

Pandit Thakur Das Bhargava: I would suggest that this Bill be dropped.

***Mr. Deputy Speaker:** So far as the Select Committee on the Notaries Bill is concerned, due to causes beyond their control hon. Members could not be present. They had to attend various, other Select Committees and the meetings could not be held for want of quorum. I would request the Hon. Minister to make another effort in this direction.

Dr. Ambedkar: I am in the hands of the House.

Dr. Tek Chand (Punjab)**:** May I suggest that the time for submitting the report of this Select Committee may be extended up to the 6th ? The time expires today.

Mr. Deputy Speaker: I shall take notice of the oral motion. Is it the pleasure of the House to extend the time ?

Dr. Tek Chand : We shall meet on the 4th or 5th and by this time the other Select Committees will have finished their work. This is only half an hour's work. Therefore, I am making the suggestion for extension of time.

Mr. Deputy Speaker: Does the Hon. Minister agree with the proposal for extension of time ?

*P. D., Vol. 14, Part II, 28th September 1951, pp. 3619-21.

Dr. Ambedkar : I have no objection.

Mr. Deputy Speaker: I thought the Hon. Minister who is the sponsor of the Bill will make the motion.

Dr. Ambedkar : That is a difficult matter for me at this stage. If the House appoints a Select Committee, surely Government will take the necessary steps to put the measure through.

Mr. Deputy Speaker: Considering the peculiar circumstances of this House, the House does not seem to be in favour of discharging the Select Committee and an oral motion has been made for extension of time by one of the hon. Members. I would like this motion to be made by the Hon. Minister himself.

Dr. Ambedkar : I do not know whether I can do that. It is not for me to make any motion.

Mr. Deputy Speaker: He is the sponsor of the Bill. Therefore, he has to make the motion. Just a minute. The time does not expire today. The Select Committee can report up to the 1st. Therefore, in due course the Hon. Minister may make a motion for extending the time up to the 6th. He is now aware that the house is generally in favour of continuing the Select Committee. That disposes of this particular matter.

So far as other matters are concerned. I would ask hon. Members to refer to rule 7o. It is true that hon. Members are on various Select Committees, and with sessions in the morning and evening the Select Committees will have to sit while the House is in session. Rule 70 says that Select Committees may sit whilst the House is sitting, provided that on a division bell being rung the Chairman of the Committee shall suspend the proceedings of the Committee for such time as will in his opinion enable Members to vote on the division. I understand this is the practice in the House of Commons also. Hon. Members want many matters to be referred to Select Committees. On one hand there is this desire and on the other there is a desire to say ' We are called in the Select Committee'. My remarks yesterday did not apply to

hon. Members who were away in connection with Select Committees. Select Committee work is as good as work in this Parliament. As far as Shri Sidhva is concerned, he need not complain that Government have put him in several Select Committees. Why should he be anxious to serve on more than one Select Committee ?

Shri Sidhva : We did not approach for Select Committee membership.

Dr. Ambedkar: The work of the Select Committes and the house will be faciliated if care is taken, while nominating people to Select Committees, to see that the same people are not nominated to two Committees.

Shri Sidhva: Quite right.

Mr. Deputy Speaker: In future, care should be taken to see that Members are spread over various Select Committees instead of clogging or requesting one Member to be on more than one Select Committee. Even if a mistake is committed by the sponsor of a Bill in putting the same Member again, the Member concerned might consider whether it is proper for him to accept membership of more than one Select Committee and not complain to the House that he has no time to attend meetings.

(41)

*MOTIONS RE : DELIMITATION OF CONSTITUENCIES ORDERS

Mr. Deputy Speaker: We will take up motions re-delimitation of constituencies. I will call the names of hon. Members who have given notice of motions, they need merely say they move.

The Minister of Law (Dr. Ambedkar): I have got to make five motions which are the main motions. Thereafter, there are certain motions for amending my motions. Therefore, I submit, subject to your ruling, the proper course would be to call upon me first to move my motions and then ask the other Members who want to move amending motions to move theirs.

Mr. Deputy Speaker: The Hon. Minister may move his motions now.

Council Constituencies (Bombay) Order

Dr. Ambedkar: I beg to move:

> That the following modifications be made in the Delimitation of Council Constituencies (Bombay) Order, 1951, laid on the Table on the 20th September 1951, namely;—
>
> (1) That in the Table, under the heading "Graduates' Constituencies" against the entry "Bombay City (Graduates)" in column 1, for the entry "Bombay City" occurring in column 2, the following be substituted, namely:—
>
> "Greater Bombay."
>
> (2) That in the Table, under the heading "Graduates' Constituencies" against the entry "Northern Division (Graduates)" in column 1, for the entry "Northern Division" occurring in column 2, the following be substituted, namely:—
>
> "Northern Division excluding Bombay Suburban Districts and Ahmedabad City."

*P. D., Vol. 16, Part II, 6th October 1951, pp. 4399-4404.

(3) That in the Table, under the heading "Graduates' Constituencies" against the entry "Central Division (Graduates)" in column 1, for the entry "Central Division" occurring in column 2, the following be substituted, namely:—

"Central Division excluding Poona City."

(4) That in the Table, under the heading "Teachers' Constituencies" against the entry "Bombay City (Teachers)" in column 1, for the entry "Bombay City" occurring in column 2, the following be substituted, namely:—

"Greater Bombay."

(5) That in the Table, under the heading "Teachers' Constituencies" against the entry "Northern Division (Teachers)" in column 1, for the entry "Northern Division" occurring in column 2, the following be substituted, namely:—

"Northern Division excluding Bombay suburban Districts and Ahmedabad City."

(6) That in the Table, under the heading "Teachers' Constituencies" against the entry "Central Division (Teachers')" in column 1, for the entry "Central Division" occurring in column 2, the following be substituted, namely:—

"Central Division excluding Poona City".

(7) That in the Table, under the heading "Local Authorities' Constituencies", against the entry "Bombay City (Local Authorities)" in column 1, for the entry "Municipal Corporation of Bombay City" occurring in column 2, the following be substituted, namely:—

"Area under the jurisdiction of the Municipal Corporation of Greater Bombay."

(8) That in the Table, under the heading "Local Authorities' Constituencies", against the entry "Ahmedabad City (Local Authorities)" in column 1, for the entry "Municipal Corporation of Ahmedabad" occurring in column 2, the following be substituted, namely:—

"Area under the jursdiction of the Municipal Corporation of Ahmedabad."

(9) That in the Table, under the heading "Local authorities' Constituencies" against the entry "Ahmedabad District (Local Authorities)", in column 1, for the entry "Ahmedabad District (excluding Ahmedabad City Municipal Corporation) and Sabarkantha District" occurring in column 2, the following be substituted, namely:—

"Ahmedabad District (excluding the area under the jurisdiction of the Municipal Corporation of Ahmedabad) and Sabarkantha District."

(10) That in the Table, under the heading "Local Authorities' Constituencies", against the entry "Poona City (Local Authorities)" in column 1, for the entry "Municipal Corporation of Poona City" occurring in column 2, the following be substituted, namely:—

"Area under the jurisdiction of the Municipal Corpration of Poona."

(11) That in the Table, under the heading "Local Authorities' Constituencies", against the entry "Poona (Local Authorities)", in column 1, for the entry "Poona District excluding Poona City Municipal Corporation" occurring in column 2, the following be substituted, namely:—

"Poona District (excluding the area under the jurisdiction of the Municipal Corporation of Poona."

Council Constituencies (Madras) Order

Dr. Ambedkar: I beg to move :

That the following modifications be made in the Delimitation of Council Constituencies (Madras) Order, 1951, laid on the Table on the 20th September 1951, namely:—

(1) That at page 1, in the Table, under the heading "Graduates' Constituencies" against the entry "Madras South (Graduates)" in column 1, for the words "Madras City, and the Chingleput" occurring in column 2, the words "Madras, Chingleput" be substituted.

(2) That at page 2, in the Table, under the heading "Teachers' Constituencies" against the entry "Madras South (Teachers)" in column 1, for the words "Madras City" and the Chingleput" occurring in column 2, the words "Madras, Chingleput" be substituted.

Council Constituencies (Mysore) Order

Dr. Ambedkar: I beg to move:

That the following modification be made in the Delimitation of Council Constituencies (Mysore) Order, 1951, laid on the Table on the 20th September 1951, namely:—

That in the Table, the word "Revenue" wherever it occurs, be omitted.

Parliamentary and Assembly Constituencies (Madras) (Amendment) Order

Dr. Ambedkar: I beg to move :

(1) That the following modification be made in the Delimitation of Parliamentary and Assembly Constituencies (Madras) (Amendment) Order 1951 laid on the Table on the 20th September 1951, namely:—

'That at page 17, in Item (69)—"Villages comprising the firka of Vaniyambadi in Tirupattur Taluk"—for the words "and Chinnakallupalli" occurring at the end, the words "Chinnakallupalli and Devasthanam" be substituted.'

(2) That the following modifications be made in the Delimitation of Parliamentary and Assembly Constituencies (Madras) (Amendment) Order, 1951 laid on the Table on the 20th September 1951, namely :—

1. That at page 1, in para 2 (b), in the proposed Explanation, for the words "area comprising the villages" the word "areas" be substituted.

2. That at page 2, for para 5 of the said Order the following be substituted, namely :—

"5. in item (23) of the Appendix to the said Order, for the words "Sevalur part, Pothuravuthampatti, Manapparai" the words "Manapparai panchayat" shall be substituted.

3. That in para 6,—

(i) in item (2) of the Schedule, for the words "Pitali, Sirimamidi and Gollagandi" the words "Pitali and Sirimamidi" be substitued;

(ii) in item (14) of the Schedule, after the words "Venkampeta near Ramavaram" the word "Ramavaram." be inserted;

(iii) in item (21) of the Schedule, after the word "Derasan," the word "Pydibhimavaram" be inserted ;

(iv) in item (63) of the Schedule, after the words "Koppedu Kapula, Kandriga," the word "Agaram," be inserted;

(v) in item (80) of the Schedule, for the word "Kallupatti" where it occurs for the second time, the word "Sethupatti" be substituted ;

(vi) in item (87) of the Schedule, for the word "Aruppukkottai" the words "Aruppukkottai Municipality" be substituted ;

(vii) in item (93) of the Schedule, for the words and brackets "Devakottai Rural (Eravaseri)" the words and brackets "Devakottai Municipality, Eravaseri (Rural)" be substituted; and

(viii) in item (95) of the Schedule, for the words and brackets "Keppapatnam (Manamathurai Panchayat Board)" the words "Kepparpatnam, Manamadurai Panchayat" be substituted.

Parliamentary and Assembly Constituencies (Uttar Pradesxh) (Amendment) Order

Dr. Ambedkar: I beg to move:

That the following modifications be made in the Delimitation of Parliamentary and Assembly Constituencies (Uttar Pradesh) (Amendment) Order, 1951 laid on the Table on the 20th September 1951, namely:—

(1) That at page 1, in para. 2 (ii), after the words "but including Mohammadi," the words "Atwa Piparia," be inserted.

(2) That at page 1, in para. 2 (iii), after the bracket and words "excluding Mohammadi," the words "Atwa Piparia," be inserted.

(3) That at page 2, in para, 3 (i), in the Table for the entry "Pauri (North) *cum* Chamoli (East)" in column 1, the following entry be substituted, namely:—

"Pauri (South)-*cum*-Chamoli (East)"

(4) That at page 2, after para. 3 (iii), the following new sub-para. be inserted, namely :—

"(iiia) for the entries " Mohammadi (West) and Mohammadi (East)" in column 1, and for the entries against them in column *2,* the following entries be substituted, namely:—

1		2
Mohammadi (West)	...	Mohammadi, Atwa Piparia, Magadpur and Pasgawan Parganas of Mohammadi tahsil.
Mohammadi (East)	...	Mohammadi tahsil (excluding Mohammadi, Atwa Piparia, Magadpur and Pasgawan Parganas)."

***Mr. Deputy Speaker :** I shall take up Bihar first. Have they come to any arrangement ?

BIHAR ORDER

Dr. Ambedkar (Bombay)**:** I had a meeting with several Members who have tabled amendment motions to my main motion with regard to the Constituencies Orders issued by the President. The arrangement arrived at is this. Out of list 4, I accept amendment No. 6, parts 1 and 2 (amendment moved by Shaikh Mohiuddin and Mr. Kshudiram Mahata).

Mr. Deputy Speaker: I understand there are only two parts. The Hon. Minister is accepting both the parts ?

Dr. Ambedkar: Anyhow, I would like to particularise the parts ; I accept parts 1 and 2.

Mr. Deputy Speaker: That is all with respect to Bihar ?

Dr. Ambedkar: Yes.

* P. D., Vol. 16, Part II, 11th October 1951, pp. 4617-20.

Mr. Deputy Speaker: I shall put it to the House. Any other hon. Members wanting to speak ?

Shri Syamnandan Sahaya (Bihar)**:** Before we accept the Bihar order, will the Hon. Minister kindly state what are the actual changes that he is accepting?

Mr. Deputy Speaker: There are no changes made. The amendment as a whole is accepted. I shall read it.

Shri Syamnandan Sahaya: Because there stand in the name of Mr. Kshudiram Mahata several amendments. Therefore we would like to know exactly.

Dr. Ambedkar: After accepting certain amendments moved by the hon. Members, I thought that there might be some point of order that might be raised against them in view of the fact that in certain cases there were amendments to propositions which did not exist at all. Therefore, I thought it much better to take upon myself the responsibility of moving these amendments so that there may be no point of order arising.

Shri Syamnandan Sahaya: I am not raising any point of order. I only wished to understand the particular amendment of Mr. Mahata which was being accepted. If you will kindly read out or if the Hon. Minister will explain, we will know what exactly the position is.

Dr. Ambedkar: The position is this.

Mr. Deputy Speaker: May I suggest one thing ? I shall allow the Hon. Law Minister to move the amendment which he accepts. Thereafter, I shall consider the other amendments. If they are barred, they will be barred. If any other hon. Member wants to move any amendments which are not barred, the House will consider them. The amendments have already been moved. If they want to speak, they may speak.

Dr. Ambedkar: The amendments moved by Sheikh Mohiuddin and Shri Kshudiram Mahata deal with the spliting up of the Graduates Constituency for the Council of

States. Originally, in the Order issued by the President, the grouping was done in a different manner. The Members of the Committee which I had invited mentioned that the Order proposed by Sheikh Mohiuddin and Mr. Mahata should be adopted; in other words, there should be a separate division for Patna, a separate division for Tirhut, and separate division for Bhagalpur and a separate division for Chota Nagpur. On the whole I thought that there was some substance in the arguments presented by these two Members who had taken upon themselves the responsibility to move these amendments. The same has been done with regard to the Teachers Constituencies for the Council of States. In other words, Bihar has been divided into four divisions. Patna, Tirhut, Bhagalpur and Chota Nagpur. So far as I could understand the sense of the Bihar Members who were present at that meeting the sense was unanimous in favour of the arrangement proposed by this amendment.

Mr. Deputy Speaker: He has only done this. Instead of the entire state being a single constituency for Graduate in Bihar, it has now been divided into four constituencies, under this amendment.

Dr. Ambedkar: Both for Graduates and Teachers.

Deputy Speaker: In the Order of the President, Graduates alone is noted.

Dr. Ambedkar: If you will kindly refer to list 4, Bihar, you will see.....

Mr. Deputy Speaker: I am putting the Teachers Constituency later. Hon. Members will refer to the Delimitation of Council of States Constituencies Order. In the Table. Bihar, Graduates is the earliest entry. The following is the amendment. In the place of the 'Entire State' as the Graduates Constituency in the second column, the hon. Member has given notice of his amendment that the entire State may be divided into four subdivisions for the purpose of elections. I shall put that to the House and then I shall come to Teachers later.

Mr. Deputy Speaker: The question is:

That the following modifications be made in the Delimitation of Council Constituencies (Bihar) Order, 1951 laid on the Table on the 20th September 1951, namely:—

1. That in the Table, for the entry " Bihar (Graduates)" in column 1 and all the entries occurring against it in columns 2 and 3 the following be substituted, namely:—

1	2	3
Patna Division (Graduates)	Patna Division	2
Tirhut Division (Graduation)	Tirhut Division	2
Bhagalpur Division (Graduates)	Bhagalpur Division	1
Chota Nagpur Division (Graduates)	Chota Nagpur Division	1

2. That in the Table, under the heading "Teachers' Constituencies" for all the entries occurring in columns 1, 2 and 3, the following be substituted, namely:—

1	2	3
Patna Division (Teachers)	Patna Division	1
Tirhut Division (Teachers)	Tirhut Division	1
Bhagalpur Division (Teachers)	Bhagalpur Division	2
Chota Nagpur Division (Teachers)	Chota Nagpur Division	2

The motion was adopted.

Mr. Deputy Speaker: The President's Order relating to the Teacher's Constituency relating to Bihar stands modified to this extent.

Also, the President's Order relating to the Teachers' Constituency relating to Bihar stands modified to this extent.

Have all the other hon. Members who have moved amendments to this Order the leave of the House to withdraw them ?

The amendments were, by leave, withdrawn.

Bombay Order

Dr. Ambedkar: With regard to the Bombay Order (Council) I accept Amendment No. 1 in List No. 1 parts 1 and 2 by Shri Deogirikar and others, as modified by amendment No. 3 in List No. 3 by Shri Deogirikar.

I may explain the substance of these amendments which is the same as the substance of the amendments which we have accepted in respect of the Bihar Order.

The original Order issued by the President distributing the graduates seats between Bombay, Ahmedabad and Poona in certain proportion gave two seats to Bombay and one seat combined to Ahmedabad and Poona. It was the desire of Shri Deogirikar and others who has tabled the amendment to modify this distribution. They wanted first a rotation between Ahmedabad and Poona or one seat, going to each by turn. I do not think this rotation system is good, however, I accepted that it may be desirable to treat all the towns like Bombay, Poona and Ahmedabad on an equal footing although it was not possible to assess the total strength of all the graduates residing in those particular towns. Consequently I accepted the amendment so as to distribute the seats between Bombay, Poona and Ahmedabad equally, one each; and I have done the same thing with regard to the Teachers' Constituency also.

The motion was adopted.

***Mr. Deputy Speaker:** The President's order relating to the Bombay Teachers' Constituency stands modified to the extent of the amendment that has been accepted by the House.

So also the President's order relating to the Bombay Graduates' Constituency stands modified to the extent of the amendment that has been a accepted by the House.

Dr. Ambedkar: I request leave of the house to withdraw parts (1) to (6) of my amendment No. 2 in List No. 2 Bombay order (Council) in consequence of the acceptance of the amendment of Shri Deogirikar and others.

Parts (1) to (6) of the amendment were, by leave, withdrawn.

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* P. D., Vol. 16, Part II, 11th October 1951, pp. 4621-22.

***Mr. Deputy Speaker:** The President's order stands modified in the extent of this amendment, in addition to the modification effected by the amendment of Shri Deogirikar.

The question is :

That the following modifications ho made in Delimitation of Council Constituencies (Madras) Order, 1951, laid on the Table on the 20th September 1951, namely : —

(1) That at page 1, in the Table, under the heading "Graduates' Constituencies" against the entry "Madras South (Graduates)" in column 1, for the words "Madras City, and the Chingleput" occurring in column 2, the words "Madras, Chingleput" be substituted.

(2) That at page 2, in the Table, under the heading "Teachers' Constituencies" against the entry "Madras South (Teachers)" in column 1, for the words "Madras City., and the Chingleput" occurring in column 2, the words "Madras, Chingleput" be substituted.

The motion was adopted.

Dr. Ambedkar: Sir, I accept amendment No. 2 on List No. 2 (Madras Council Order) moved by Shri Kesava Rao.

Mr. Deputy Speaker: The question is :

That the following modifications be made in the Delimitation of Council Constituencies (Madras) Order, 1951 laid on the Table on the 20th September 1951, namely:—

That in the Table, in column 2, after the words "Malabar and South Kanara Districts" wherever they occur, the following be added, namely:—

"and the West Cost Islands of Minicoy, Laccadives and Amindivis".

The motion was adopted,

Mr. Deputy Speaker: The president's order relating to the Delimitation of Council Constituencies (Madras) stands modified to the extent of the two amendments accepted by the House.

Uttar Pradesh Order

****Dr. Ambedkar:** I am accepting amendment No. 1, Parts (1) and (2), second alternatives, by Babu Gopinath Singh. It provides for contiguity and hence I am accepting it.

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*P. D., Vol. 16, Part II, 11th October 1951, p. 4624.

** *Ibid.,* pp. 4425-26.

Mr. Deputy Speaker: The question is:

That the following modifications be made in the Delimitation of Council Constituencies (Uttar Pradesh) Order, 1951, laid on the Table on the 20th September 1951, namely:—

(1) (i) That in the Table, under the heading "Graduates' Constituencies", against the entry "Uttar Pradesh West (Graduates)" in column 1, for all the words occurring in column 2, the words "Meerut, Agra, Jhansi, Allahabad and Faizabad Divisions" be substituted.

(ii) That in the Table under the heading "Graduates' Constituencies", against the entry "Uttar Pradesh East (Graduates)" in column 1, for all the words occurring in column 2, the words "Rohilkhand, Kumaun, Lucknow, Banaras and Gorakpur Division" be substituted.

(2) (i) That in the Table, under the heading "Teachers' Constituencies", against the entry "Uttar Pradesh West (Teachers')" in column 1, for all the words occurring in column 2, the words "Meerut, Agra, Jhansi, Allahabad and Faizabad Divisions" be substituted.

(ii) That in the Table under the heading "Teachers' Constituencies", against the entry "Uttar Pradesh East (Teachers)" in column 1, for all the words occurring in column 2, the words "Rohilkhand, Kumaun, Lucknow, Banaras and Gorakpur Divisions" be substituted.

The motion was adopted.

Dr. Ambedkar: I am prepared to accept amendment No. 2 in list No. 2 moved by Dr. C. D. Pande to the Delimitation of Council Constituencies (Uttar Pradesh) Order, 1951.

Mr. Deputy Speaker: The question is:

That the following modifications be made in the Delimitation of Council Constituencies (Uttar Pradesh) Order, 1951, laid on the Table on the 20th September, 1951, namely:—

(1) That in the Table, under the heading "Local Authorities' Constituencies" against the entry "Uttar Pradesh North-East (Local Authorities)" in column 1 for the word "Shahjahanpur" occurring in column 2, the word "Budaun" be substituted.

(2) That in the Table, under the heading "Local Authorities' Constituencies"$_t$ against the entry "Uttar Pradesh Central (Local Authority)" in column 1, for the word "Budaun" occurring in column 2, the word "Shahjahanpur" be substituted,

The motion was adopted.

The other amendments to the order were, by leave, withdrawn.

Mr. Deputy Speaker: The President's Order relating to the Delimitation of Council Constituencies (Uttar Pradesh)

stands amended by the amendments adopted by the House, which stood in the names of Babu Gopinath Singh and Dr. C. D. Pande.

West Bengal Order

Dr. Ambedkar: I accept amendment No. 2 in List No. 2, standing in the names of Messrs. Samanta and Abdus Sattar, to the Delimitation of Council Constituencies (West Bengal) Order, 1951.

Shri Chattopadhyay (West Bangal)**:** In view of the agreement reached I beg leave of the House to withdraw my amendment. But before you put the motion to the House I have a doubt to be clarified which relates to the case of nominated members of local authorities. It has never been the desire of this Parliament or the Constituent Assembly that nominated members should have any right to vote in the matter of elections to Councils. We have provided in the Constitution that nominated members of the Upper Houses in the Centre as well as States should have no right to vote for the election of the President in this Constituency under discussion there are as many as two municipalities with a total strength of 24 members, who are all nominated and if they get the right of vote in the matter of election to the Council I think the Council in the State of Bengal will become something like a farce because the members of the Council elected by nominated members will stand on a par with the representatives sent by elected members. It was never the desire of Parliament nor the Constituent Assembly that nominated members of local bodies should have any right to vote in the matter of election of the President or in the matter of election to the Councils. It is due to oversight that a mistake of so grave character has crept in and I would like to know whether anything could be done to remedy the mistake.

Dr. Ambedkar: I see the significance of the point raised by my hon. friend but the difficulty is a constitutional difficulty. The Constitution does not make any distinction between nominated members and elected members. Although

I agree with my friend that it was not the intention of the Constituent Assembly to permit nominated members to take part in the election, as this matter was not brought to the attention of the Constituent Assembly, it is now impossible for us to do anything unless by amending the Constitution, which is of course an impossible proposition.

Shri Chattopadhyay: May I know whether the State Government could do something to debar such members from being voters in the election and whether the State Government even at this stage could do away with their membership by an executive order?

Dr. Ambedkar: It is of course quite open to the local Assembly to pass another Municipal Act making the whole of the Municipality wholly elected, before the election takes place so that the difficulty raised by my friend can be obviated. But there is nothing which this Parliament can do in this matter.

Shri Chattopadhayay: May I know whether the Law Ministry is going to instruct the State Government to this effect ?

Dr. Ambedkar: I suppose it would be for the Prime Minister to take this point into consideration and to inform the Ministry if he thinks that it is desirable that the nominated members should not take part in the election.

Shri Chattopadhayay: May I have the opinion of the Prime Minister in this matter ?

The Prime Minister (Shri Jawaharlal Nehru): I am sorry I have not quite followed the argument……

Dr. Ambedkar: The point, if I may tell the Prime Minister, is this, that there are certain Municipalities in West Bengal where a large number of the membership of the Municipality is by reason of nomination……..

Shri Sondhi (Punjab)**:** In Punjab also.

Dr. Ambedkar: In Punjab also. In our Constitution, when we considered the question of the constitution of the Upper

Chamber we merely used the general expression "members of the municipality" without making it a qualification "elected members". The question has arisen whether it is desirable that the nominated members of the municipality should also take part in the election of members to the Upper Chambers. The answer I gave was that although it is not possible for us to do a anything by reason of the fact that we have got this constitutional provision, still, as municipalities are a subject for the State it would be possible for the State Governments to modify their Municipal Acts so as to eliminate the nominated members from the Municipalities. The question put to me was whether the Central Government could do anything. I said the only answer that I could suggest was that perhaps the Prime Minister, if he so thought fit, might instruct the Chief Ministers of West Bengal or Punjab that this anomaly may be eliminated.

The Minister of Home Affairs (Shri Rajagopalachari): What the Law Minister means is that they may be eliminated from the Council—they cannot eliminate them from their functions under the Constitution.

Dr. Ambedkar: No, no.

Mr. Deputy Speaker: So long as they are members of municipalities, nominated members, under the Constitution, are entitled to vote. The suggestion is not, that the Constitution may be modified overnight—the suggestion is, that if they modify the existing law relating to municipalities, dissolving all the existing municipalities, and before the election takes place, allow all the seats to be filled by election, then it would meet the purpose. But are we making suggestions now on the floor of the House, as to what ought to be done? Let us proceed. We have very little time left. The matter in hand is the Delimitation of Constituencies' Orders. I do not think we should trouble the hon. Prime Minister unless he wants to do it himself. Let us proceed with the legitimate work before us.

MYSORE ORDER

***Mr. Deputy Speaker:** We have the amendment in List No. 1.

Shri Shankaraiya (Mysore)**:** Before it is put to the vote of the House I would like to suggest to the hon. Minister to consider that instead of deleting the word "Revenue "as it stands in column 2, it may be allowed to remain by putting if within brackets ; the effect will be the same. Removing the word or putting it in brackets will practically mean the same thing. By putting it in brackets it will be more clear and authentic.

Dr. Ambedkar: This is a purely administrative matter and we are acting upon the advice received from the Mysore Government that if the word " Revenue "is retained there might be some complications or mistakes arising. In view of that I must support this amendment.

Mr. Deputy Speaker: The question is :

> That the following modification be made in the Delimitation of Council Constituencies (Mysore) Order, 1951, laid on the Table on the 20th September 1951, namely :—
>
> That in the Table, the word "Revenue" wherever it occurs, be omitted.

The motion was adopted.

Mr. Deputy Speaker: To this extent the President's Order stands modified.

The Council Constituencies Orders are over. The House will now proceed to the consideration of amendments relating to Parliamentary and Assembly Constituencies.

Dr. Ambedkar: We are now taking Amendment Orders. The President himself has issued certain Amending Orders and there are amendments to these Amending Orders.

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*P. D., Vol. 16, Part II, 11th October 1951, pp. 4629-41.

PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES
BOMBAY (AMENDMENT) ORDER

Dr. Ambedkar: I accept amendments Nos. 2 and 3 in List No. 2. All the others are going to be withdrawn.

Mr. Deputy Speaker: The question is:

(i) That in the Delimitation of Parliamentary and Assembly Constituencies (Bombay) (Amendment) Order, 1951, after item No. 2, the following new item No. 2A, be inserted, namely:—

"2A. In Table A.-Parliamentary Constituencies of the said Order.—

(i) against the entry "Ahmednagar North" in column 1 the words "Nandgaon Municipal Area" in column 2, shall be omitted ; and

(ii) against the entry "Nasik Central" in column 1, the words "Nandgaon Municipal Area and in column 2 shall be-omitted."

(ii) That in the Delimitation of Parliamentary and Assembly Constituencies (Bombay) (Amendment) Order, 1951 after item No. 3, the following new item No. 3A be inserted, namely:

"3A. In Table B.—Assembly Constituencies of the said order.— (i) against the entry "North Malegaon" in column 1, for the existing entry in column 2, the following entry shall be substituted, namely:—

'Malegaon Municipal Area and Maleaon Taluka excluding such of the villages as are specified in item (36) of the Appendix'.;

(ii) against the entry "South Malegaon-North Nandgaon" in column 1, for the existing entry in column 2, the fallowing entry shall be substituted, namely:—

'Such of the villages of Malegaon Taluka as are specified in item (36) of the Appendix; and Nandgaon taluka (excluding such of the villages as are specified in item (35) of the Appendix).'; and

(iii) against the entry "Yeola-Nandgaon" in column 1, the words ...Nandgaon Municipal Area "in column 2, shall be omitted."

The motion was adopted.

Mr. Deputy Speaker: To this extent the President's Order stands modified.

Have the other hon. Members who have tabled other amendments the leave of the House to withdraw them ?

The amendments were, by leave, withdrawn.

Mr. Deputy Speaker: The President's Amendment order relating to Bombay was modified to the extent of the amendments accepted by the House.

MADHYA PRADESH (AMENDMENT ORDER)

Dr. Ambedkar: Sir I move amendment No. 1 in list No. 1 and amendment No. 3 in list No. 3. Amendment made:

That the following modification be made in the Delimitation of Parliamentary and Assembly Constituencies (Madhya Pradesh) (Amendment) Order, 1951 laid on the Table on the 20th September 1951, namely:—

That in sub-para, (i) of para. 3 of the Order, for the words "Ordinance Factory; Khamaria, Gun Carriage Factory" the words "Ordinance Factory Khamaria, Gun Carriage Factory Estate," be substituted.

—[*Dr. Ambedkar*]

Further amendment made :

That the following modification be made in the Delimitation of Parliamentary and Assembly Constituencies (Madhya Pradesh) (Amendment) Order, 1951 laid on the Table on the 20th September 1951, namely:—

That at page 1, after para. 3(i) of the Order, the following new sub-paras, (ia) and (ib) be inserted, namely:—

'(ia) against the entry Nagpur 1" in column 1, for the existing entry in column 2 the following entry shall be substituted:—

"Ward No. 1 including villages Somalwada Chichabhuwan, Ajni, Wards Nos. 2 to 4, 7, 37 and 38 and Ward No. 39 including villages Borgaon, Hazaripahad and Dhaba, Wards Nos. 40, 41 including villages Kachimeth and Sonegaon Sim and Ward no. 42 including villages Jaitala, Bhamti, Sonegaon (Bazar), Khamla, Takali Sim, Parsodi and Shiwangaon of Nagpur City of Nagapur tehsil.";

(ib) against the entry "Nagpur IV" in column 1, for the existing entry in column 2 the following entry shall be substituted :—

"Ward No. 8 including villages Babulkheda Sakardara, Manewada, Chikhali Khurd, Ward No. 10 including villages Harpur, Dighori, Bidpeth and Wathoda, Ward No. 22 including villages Hiwari, Pardi, Bhandewadi, Chikhali (Deosthan). Punapur and Bharatwada, Wards Nos. 23 and 24 including villages Kalamna, Wanjara and Wanzari, Wards Nos. 29 to 32, Ward No. 33 including Nari, Ward No. 34 including Takali (Big) and Gorewada, Ward No. 35 including villages Nara, Indora and

Mankapur and Ward No. 36 of the Nagpur City, and Nagpur R.I.C. (excluding patwari circles Nos. 1 and 10 to 12) of the Nagpur tehsil.";'.

—[*Dr. Ambedkar*]

Mr. Deputy Speaker: Are the other amendments withdrawn by leave of the House ?

The amendments were, by leave, withdrawn.

Mr. Deputy Speaker: The President's Amendment Order relating to Madhya Pradesh stands modified to the extent of the amendments accepted by the House.

MADRAS (AMENDMENT) ORDER.

Amendment made :

That the following modification be made in the' Delimitation of Parliamentary and Assembly Constituencies (Madras) (Amendment) Order, 1951 laid on the Table on the 20th September 1951, namely:—

"That at page 17, in Item (69)—"Villages comprising the firka of Vaniyambadi in Tirupattur taluka"—for the words "and Chinnakallupalli" occurring at the end, the words "Chinnakallupalli and Devasthanam" be substituted."

—[*Dr. Ambedkar*]

Further amendment made:

That the following modifications be made in the Delimitation of Parliamentary and Assembly Constituencies (Madras) (Amendment) Order, 1.951 laid on the Table on the 20th September, 1951 namely :—

1. That at page 1, in para. 2(b), in the proposed *Explanation,* for the words "area comprising the villages" the word "areas" be substituted.

2. That at page 2, for para. 5 of the said Order the following be substituted, namely :-

"5. In item (23) of the Appendix to the said Order, for the words "Sevalur part, Pothuravuthampatti, Manapparai" the words "Manapparai panchayat" shall be substituted."

3. That in para. 6,—

(i) in item (2) of the Schedule, for the words "Pitali, Sirimamidi and Gollagandi" the words "Pitali and Shrimamidi" be substituted ;

(ii) in item (14) of the Schedule, after the words "Venkampeta near Ramavaram "the word "Ramavaram", be inserted;

(iii) in item (21) of the Schedule, after the word "Derasan," the word "Pydibhimavaram" be inserted ;

(iv) in item (63) of the Schedule, after the words "Koppedu Kapula Kandriga", the word "Agaram", be inserted.

(v) in item (80) of the Schedule, for the words "Kallupatu," where it occurs for the scond time, the word "Sethupatti" be substituted;

(vi) in item (87) of the Schedule, for the word "Aruppukkottai" the words "Aruppukkottai Municipality "be substituted ;

(vii) in item (93) of the Schedule, for the words and brackets "Devakottai Rural (Eravaseri)" the words and brackets "Devakottai Municipality, Eravaseri (Rural)" be substituted ; and

(viii) in item (95) of the Schedule, for the words and brackets "Kepparpatnam (Manamathurai Panchayat Board)" the words "Kepparpatnam, Manamadurai Panchayat" be substituted.

—[*Dr. Ambedkar*]

Mr. Deputy Speaker: The President's Amendment Order relating *to* Madras stands modified to the extent of the amendments accepted by the House.

UTTAR PRADESH (AMENDMENT) ORDER

Pandit Kunzru (Uttar Pradesh)**:** It is not enough that an order making changes by the President is laid before the House nor is it enough that my hon. friend Dr. Ambedkar should propose further changes in them. We should like to know why these changes have become necessary…….. The constituencies as demarcated I think gave general satisfaction and we ought to be careful therefore in making changes in them. If my hon. friend the Law Minister tells me the precise reasons why the changes in the case of Parliamentary and Assembly constituencies of U.P. have become necessary. It will be possible for us to decide whether we should vote with him or against him, but at present we are just helpless. We do not know what to do.

Dr. Ambedkar: I have no reason to complain against my hon. friend Pandit Hirday Nath Kunzru for raising the point which he has raised, for undoubtedly every one of us should be very careful against permitting any kind of political gerry mandering in the making up of constituencies, and if there was any suspicion that any particular party was manoeuvring to change a constituency which has already been prescribed by the President and approved by the House it is a legitimate

matter to be raised on the floor of the House. But I would like to tell my hon. friend that so far as my information and knowledge go there is in this amendment not the slightest evidence of any kind of gerrymandering. The amendments which I have sought to make consist only of two things. One is to rectify errors which have crept in by some kind of inadvertence. Some *thana* which ought to have been mentioned has not been mentioned in the appropriate place and some other *thana* or some other place has been mentioned in its place. The second thing is that it has been discovered that in some of these cases where contiguity was possible, somehow by some mistake the principle of contiguity has been lost by the inadvertent mixture of some *thanas* from one constituency to another and an attempt is made in this amendment to remove these two errors, i.e. mistakes of a topographical kind and secondly mistakes which brought about a certain amount of discontiguity.

Pandit Kunzru: May I ask my hon. friend whether he is saying this with reference to his own amendment or with regard to the amendments in the President's Order ? If he is saying this with reference to the president's Order, then I should like him to turn to the changes proposed in the Garhwal constituency and tell me where the question of restoring contiguity exists. There is contiguity between the various parts of the constituency suggested. I know it is very difficult for him to deal with this local matter, but I mention it only in order to point out to him that the changes suggested are not due entirely to the reasons mentioned by him.

Dr. Ambedkar: May I continue, Sir ?

You will remember that last time when the President's Order with regard to delimitation was passed by this house, out of caution I moved a motion that the Speaker of the house should be given power to make such changes as it may be found necessary in order to remove certain errors.

Shri Kamath: Verbal errors, verbal amendments.

10-00 A. M.

Dr. Ambedkar: Verbal, minor, consequential or incidental—I think those were the words which were used. I was very careful to make the proposition as broad as I possibly could make for the simple reason that the House will remember that we carried the motion approving the orders of the President in great hurry and after great bustle and meetings, further meetings and further meetings.

Notwithstanding that it has been discovered that even we were not in a position to advise the Speaker with regard to the errors that had crept in. Some errors, therefore, had remained and we thought this was the proper occasion to make some provision in order to eliminate the errors that still remained, notwithstanding the scrutiny of the Local Governments, the scrutiny of the Law Ministry and the scrutiny of the Speaker. I do not think my hon. friend Pandit Kunzru will go to the length of saying that simply because we have at one time passed the Orders as issued by the President, we should not take any further occasion to remove any errors that may still be remaining in the Orders.

With regard to the particular constituency to which he referred, he was good enough to suggest that I myself by my own knowledge or information was not in a position to give a correct answer whether a particular constituency was contiguous with the amendment that we are making in this Delimitation Order. We have to depend upon the Local Government on this matter. As he will remember I took particular care to call a meeting of the members of the Uttar Pradesh Delimitation Committee to aid and advise me on the grounds which were alleged for making these changes in the Uttar Pradesh Delimitation Orders, namely correcting errors and making contiguity more possible than it was, but unfortunately he could not come to that meeting. He was the President of the Uttar Pradesh Delimitation Committee and if notwithstanding the advice that has been given to us he still contends that some things have been done which do not produce contiguity, all that I can say is that the fault must lay on his shoulders, for he did not come to the meeting to advise me as to whether what I was doing was correct or not.

Pandit Kunzru: I received no such notice, Sir.

Dr. Ambedkar: I think I did send a message to my hon. friend. My hon. friend sent it to me back with a note that with regard to certain amendments that I was accepting from Mr. Gopinath, he was perfectly prepared to support that amendment.

Pandit Kunzru: I was consulted only with regard to.....

Dr. Ambedkar: He was more interested in the Press Bill.....

Pandit Kunzru: .....suggestions made by the Committee appointed by the Speaker under the Representation of People Act, 1950 so far as the Legislative Council constituencies went and I gave my reply with regard to them.

As regard the other changes if the U.P. Government has informed the Central Government of the reason for proposing them why should my hon. friend Dr. Ambedkar not place those reasons before the House ?

Shri T. N. Singh (Uttar Pradesh)**:** If I may be permitted as a Member of the Delimitation Committee, to speak. I should like to say that the changes proposed in this notification and as moved by the hon. the Law Minister are not exactly consequential or incidental. I have tried to go carefully into the various changes that are being proposed. Take, for instance, the Benaras District with which I am fully acquainted. I do not know for what reason another pargana, has been added, which means an increase in the number of voters. In regard to Garhwal, I do not know why Chamoli is being shunted about like this.

The Minister of State for Finance (Shri Tyagi): Which one is it **?**

Shri T. N. Singh: It is not Dehra Dun: it is Garhwal.

Shri Tyagi: I am equally interested.

Shri T. N. Singh: Similarly with regard to Kanpur—Farukhabad General Constituencies, the changes proposed do require careful looking into.

After having gone into all these questions in detail. I think it will be unfair to the House if it is not allowed to go into all the various aspects of the question. I would in this connection like to tell the House that under the guidance of our Chairman we went into the question in every detail, we went into the demarcation of every village, every patwari's circle and devoted a lot of time to it…… But just at present, I find it really very difficult to support the amendment being in the dark and without knowing what it really means.

Dr. Ambedkar: The position is this in regard to the first amendment, namely: That at page 1, in para. 2 (ii), after the words "but including Mohammadi," the words "Atwa Piparia" be inserted. There is a place which is called Atwa Piparia which is not mentioned in the original order at all. That means the citizens of India who are residing in Atwa Piparia will not be entitled to take part in the election at all, because they do not form part of that particular constituency. In order to rectify this mistake, it has been proposed that this addition should be made. Now when this addition is made certain consequential amendments also have to be made in the other constituencies in order to bring them in line with the rules laid down in our Constitution that every constituency must have a certain number of voting strength and the representation distributed accordingly.

The main amendment there, as I am advised now, is only in regard to this Atwa Paparia. The rest of them are merely consequential. They have no substance except for the fact that they must be made if we accept the first amendment, namely to add "Atwa Piparia". I think hon. Members will realize that the first amendment is absolutely essential because we cannot omit any particular part from any particular constituency. If we add something to that constituency and that constituency becomes bigger than the constituency contemplated for giving one single member, then

obviously other changes must also be made. I am only explaining to my hon. friend that there is no catch in it at all.

Shri T. N. Singh: What about other places. There are also other constituencies in which radical changes appear, at least to me to have been made. For instance, against Banaras it is "Sheopur pargana and Dehat Amanat pargana excluding the Municipality and Cantonment of Banaras". Again take them (v): "Jalhupur, Sultanipur and Katehar parganas of Banaras tahsil". Formerly I think it was only Sultanpur and Katehar parganas. You have added one full pargana. I want to know what is the reason for this change.

Mr. Deputy Speaker: I will now put it to the House.

The question is :

That the following modifications b made in the Delimitation of Parliamentary and Assembly Constituencies (Uttar Pradesh) (Amendment) Order, 1951 laid on the Table on the 20th September 1951, namely:

(1) That at page 1, in para. 2 (ii), after the words "but including Mohammadi." the words "Atwa Piparia," be inserted.

(2) That at page 1, in para. 2 (iii), after the bracket and words "(excluding Mohammadi," the words "Atwa Piparia." be inserted.

(3) That at page 2, in para. 3 (i), in the Table for the entry (North) *cum* Chamoli (East)" in column 1, the following entry be substituted ; namely:—

"Pauri (South) *cum* Chamoli (East)"

"(iiia) for the entries "Mohammadi (West)" and "Mohammadi (East)" in column 1, and for the entries against them in column 2, the following entries be substituted, namely:—

1		2
Mohammadi (West)	...	Mohammadi, Atwa Piparia Magadpur and Pasgawan Parganas of Mohammadi tahsil.
Mohammadi (East)	...	Mohammadi, tahsil (excluding Mohammadi atwa Pipardia, Magadpur and Pasgawan Parganas.

The motion was adopted.

Mr. Deputy Speaker: The President's Order relating to the Delimitation of Parliamentary and Assembly Constituencies (Uttar Pradesh) stands moditied to the extent of the amendment accepted by the House.

Pandit Kunzru: May I know whether this is with regard to the U. P. Legislative assembly also or only with regard to the changes in the Parliamentary constituencies ?

Dr. Ambedkar: It covers both.

Mr. Deputy Speaker: We have done both in respect of the Council constituencies and in respect of the Parliamentary and Assembly constituencies. Now there are no more motions.

Pandit Kunzru: Could I put a question to the hon. the Law Minister about one of the Assembly constituencies ?

Mr. Deputy Speaker: The matter is over now.

Pandit Kunzru: After considering the matter we have said that one constituency should be a two-member constituency. But the U.P. Government have changed that now. Why has that become necessary? Have they found that the proportion of the scheduled caste voters in the constituency as proposed by them will be higher than in the constituency as proposed by the Speaker's Committee ?

Dr. Ambedkar: I have no information that they have made any such change.

(42)

BUSINESS OF THE HOUSE

Mr. Deputy Speaker: The hon. the Prime Minister will make a statement regarding the work before the House and the holidays.

The Prime Minister and the Leader of the House (Shri Jawaharlal Nehru): Tomorrow I believe, has been notified as a holiday in our list of holidays on account of the tenth day of Mohurrum. But I understand that the moon did not behave according to the prescribed date and the tenth day has been calculated to be the day after tomorrow and not tomorrow, and in fact that the Chief Commissioner of Delhi has declared day after tomorrow as a holiday on account of Mohurrum. I would suggest therefore that this house too may observe day after tomorrow, and not tomorrow, as a holiday on account of Mohurrum—that means, sitting tomorrow and not the day after.

Shri Kamath (Madhya Pradesh)**:** Will the session end tomorrow ?

Shri Jawaharlal Nehru: I cannot say that.

Mr. Deputy Speaker: There is so much of work on the order paper.

Shri Jawaharlal Nehru: Let us meet tomorrow. We do not meet day after tomorrow. But we may have to meet the day after that, possibly on Sunday.

Pandit Kunzru (Uttar Pradesh)**:** Why on Sunday ? Why not on Monday ?

Shri Jawaharlal Nehru: We can consider that. Why not Sunday and Monday?

Pandit Kunzru : Our privileges being those of the British House of Commons, and as the British House of Commons does not meet on Sundays, we have every right not to meet on a Sunday.

Shri Jawaharlal Nehru: The House of Commons, on the other hand, meets on the Mohurrum day.

Pandit Kunzru : If the hon. the Leader of the House has the courage to make that suggestion, let us meet on Mohurrum day.

Shri Jawaharlal Nehru : I am going to show the courage by asking the Ho use to meet on Sunday.

Pandit Kunzru: That is against our privileges.

Shri Kamath: May I suggest that instead of meeting on Sunday we might observe Mohurrum festival by meeting and working harder in the service of the nation, just as we did on the occasion of *Vinayaka Chaturthi* and *Anant Chaturdasi ?*

Mr. Deputy Speaker: We need not have a discussion on this matter. Tomorrow will be a working day. Though the 12th was originally notified as a holiday, Parliament will meet tomorrow. The holiday will be transferred to a day after tomorrow.

There is so much of work put down on the order paper, and if the Government wants to continue the work, certainly we can sit on Monday and Tuesday also.

So far as Sunday is concerned, normally I am against sitting on Sundays. But we will consider that matter according to the nature of the work, later on.

The House will now proceed with the Industries Bill. .

Dr. Ambedkar : *rose—*

Mr. Deputy Speaker: The hon. Minister might make his statement in the afternoon.

Dr. Ambedkar: After this Bill ?

Mr. Deputy Speaker: At about 6 O'clock.

Dr. Ambedkar: It was first arranged between you and me and the Prime Minister that I should make a statement on the 6th. As certain part of the business was not finished on the 6th it was definitely agreed that you would be pleased to suspend the rule about the transaction of business and allow me to make the statement on the 11th. So this is the time when I should make the statement would be read as an ex-Minister ? I think he was not told that at 6 O'clock the correspondence.

Mr. Deputy Speaker: It is true that I said to the hon. the Law Minister that I will suspend the rule. Normally under rule 128, immediately after the question hour is over any hon. Minister who has resigned can make, with the permission of the Speaker, a statement in explanation of his resignation. Today I have to suspend the rule for that purpose, and I am going to do it. I am only suggesting that it may be put off till 6 O'clock. That is all.

Dr. Ambedkar: Why not now **?**

Mr. Deputy Speaker: At 6 O'clock I will hear the hon. Minister.

Dr. Ambedkar: I do not quite understand why my statement should be postponed to 6 O'clock.

Mr. Deputy Speaker: Under the rules the Speaker must give his consent before any hon. Minister can make a statement. I would like to know what statement the hon. Minister is going to make. Of course it, involves my consent. I am not disclosing anything to the House which is not provided for, I would request the hon. Minister to give me a copy of the statement and I will allow him to read the statement this afternoon.

Dr. Ambedkar: If that was so, you could have already told me when I saw you that I should hand over my statement to you before you give the permission. You did not do so.

Mr. Deputy Speaker: There is no harm.

Dr. Ambedkar: I came and subsequently wrote a letter but so far as I am concerned you did not say that I should furnish you with a copy of my statement before you come to the conclusion that you would permit me to make a statement and so far as I read rule 128, I do not see. that there is any provision therein which requires that a statement should be submitted to the Speaker before he gives consent. The Prime Minister had asked me for a copy of my statement and I have given him a copy of my statement. If you had also given me an order that I should submit a copy of my statement to you before you come to the conclusion Whether I should make it or not, I should have been very glad to do so but you gave me no such indication when I came to you. I felt the difficulty was that under the rules the statement should be made immediately after the question hour and the Prime Minister was very keen that I should finish certain business which it may not be possible for other; Members to undertake because it involves certain difficult matters. I agreed to this and then I came to you and said, "Will you kindly suspend the rules so that I may help the Prime Minister in getting the business through" ? You never said that you wanted to see a copy of my statement before' you permitted me and I see that now you have raised this point for the first time.

Pandit Kunzru: May I know whether the Chair can claim some sort of censorship as stated by you ?

Mr. Deputy Speaker: Yes, The kind of censorship which the Chair can always exercise is to avoid the matter which ought not to be placed before the House, Which is libellous, slanderous, irrelevant and so on and so forth, (*Interruption*). Order, order, I am only answering the question which was put. I can certainly do so. I am not going to allow observations of an irrelevant nature and improper statements. I will confine myself strictly to rule 128 and if an Hon. Minister goes on making a statement on the floor of the House, I am entitled to call him to order, if I find that the statement

is lacking in decency or decorum or I otherwise regard it as irrelevant. I have always got the power. Otherwise, this rule would be meaningless.

So far as giving the permission to the Hon. Minister is concerned, I agree he came to me. Possibly his memory is short, but he did not suggest to me that under the rules I can suspend the standing orders. I wanted to accommodate him and said I would allow him to make a statement at any time that he liked and I brought to his notice that I can suspend the order. He agreed. Even now during the course of his statement if I do not agree and if I feet that a particular statement ought not to be made. I can certainly ask that portion to be erased from the proceedings of the house. In order to avoid all this. I would like to know what exactly the statement is. It is not going beyond the rules and the scope of my powers. I am prepared to allow him to make a statement suspending the rule, that immediately after the question hour the statement may be made. It still stands. I am not going behind that position and as it is open to me while the Hon. Minister is making a statement, to see that this kind of matter ought not to be stated on the floor of the House. I only asked him, now that there is time, to give me a copy of the statement. I learn that he has given a copy to the Prime minister, the Leader of the House. But to the hands of the Speaker the entire privilege of the house, the honour, the decorum and everything is entrusted. Therefore there ought to be no difference so far as the Speaker is concerned in this matter. I am not going out of the way. I am trying to exercise my powers without prejudice either to the dignity of the house or of the hon. Members with regard to the freedom of making a statement. I will allow the Hon. Minister to make the statement at 6 O'clock.

Shri Kamath: Is it not a fact that under the rules a Minister or a Member may be called to order on the ground of irrelevance or otherwise, but that the statement should not be pre-censored ?

Mr. Deputy Speaker: That is not so, I think under the rules I am entitled to see what is the statement that the Hon Minister is going to make now.

Dr. Ambedkar: I take it that you do not wish me to make a statement that is how I interpret your ruling. I am no longer a Minister. I am going out. I am not going to submit myself to this kind of dictation.

Pandit Kunzru : May I know when Shri Shyama Prasad Mookerjee resigned if he was asked by the Speaker to be supplied with a copy of the statement before he made it in the House ?

Mr. Deputy Speaker: He had a talk with the Hon. Speaker and he told him what he intended to state on the floor of the House.

All that was discussed in the House. The House will now proceed with the next business.

Pandit Kunzru: A copy of the speech was not supplied to him.

Mr. Deputy Speaker: That was not necessary.

Shri Kamath: We have been deprived of the statement anyway.

Mr. Deputy Speaker: It was left to him. Hon. Members are now told that he is not going to make a statement.

(43)

*DR. AMBEDKAR'S LETTER OF RESIGNATION

Mr. Deputy Speaker: I said that at Six O'clock Dr. Ambedkar may make his statement if he likes. I do not find him in his seat. Under the rules, immediately after the question hour is over, any hon. Minister who has resigned can, with the consent of the Speaker, be allowed to make a statement. To-day the question hour was over this morning after the short-notice question and Dr. Ambedkar piloted the Delimitation of Constituencies Motions and that is why it could not be done immediately when he wanted to make a statement. Thereafter, I thought, in keeping with the practice, either he may do it immediately after the questions or at the close of the day at Six O'clock. Therefore I fixed 6 O'clock. I would be only too glad to give him an opportunity now, but he is not here.

6-00 P.M.

As regards the copy of his statement, it is true when he wanted to make an oral statement, at the time he approached me in the Chamber, I could not anticipate and ask him to put the thing in writing and give it me. It was not right. Therefore I allowed him to make a statement and even said that I would suspend the rules, if he could not make the statement immediately after the question hour. But this morning I found that what he wanted to make by way of a statement, he had put it in writing and had given a copy to the Prime Minister, who is also the Leader of the House. Naturally, I sent word through the Secretary, sufficiently in advance or long before he rose to make his statement, to send me a copy of the statement. I am sorry to say that he would not furnish me with a copy. I do not know why. I have to regulate the debate ; not that I wanted to interfere with the statement at all. When any statement is read before

*P. D., Vol. 16, Part II, 11th October 1951, pp. 4730-37.

the house usually the person gives me a copy. I do not know the reasons why he declined to do so.

When he wanted to make a statement I said that he may make a statement without any reserve at 6 O'clock but he did not choose to do so. I am, therefore, sorry that he did not avail himself of the opportunity. I wanted to clear a misunderstanding. I had also asked him before he stood on his legs to furnish me with a copy, which unfortunately he could not furnish. At 6 O'clock whether he furnished me with a copy of the statement or not I would have allowed him to make a statement orally in this House. He has not chosen to do so.

Shri Jnani Ram (Bihar)**:** The statement has already appeard in the press.

Mr. Deputy Speaker: I do not know. The House will not take any notice of it. .

The Prime Minister (Shri Jawaharlal Nehru): May I say a few words in this connection. It is a matter of regret to me, if for no other reason, for the fact that an old colleague should part company in the way that he has done today. I do not wish to go into the various matters that have arisen to which you have referred. I got a copy of that statement at 9-30 a.m. as I was sitting in my place here, about 45 minutes before he actually rose to make it. I read it with some surprise, because it was not the kind of statement that I had expected from a Minister resigning. However, there it was and it was my intention when he made that statement to say a few words, because it was not desirable nor permissible under the rules to have a debate on such a matter. I should just like, with your permission, to read out the letter of resignation sent to me and a few other letters exchanged before and after.

The first letter which I received from him.

Dr. Deshmukh (Madhya Pradesh)**:** On a point of order, if it was the desire of the Chair to give Dr. Ambedkar another opportunity then I think instead of the Prime Minister making any statement on this issue just now, it would be better to wait to see if Dr. Ambedkar is prepared to avail himself of the opportunity.

Khwaja Inait Ullah (Bihar)**:** We have already got a copy in our hands...

Dr. Deshmukh: If an opportunity is proposed to be given...

Mr. Deputy Speaker: I do not know whether any hon. Member can speak on behalf of another Member and I do not know whether Dr. Deshmukh has any authority from Dr. Ambedkar...

Dr. Deshmukh: Not at all.

Mr. Deputy Speaker: Though he might have resigned as a Minister he is still a Member of the House. We expect in fairness that when he asked the Deputy Speaker to waive notice and the Deputy Speaker had agreed to waive notice and fixed 6 O'clock for the statement, we expected him to be here and make his representation. It was open to him to make the statement or not, but he is not in his seat at all. The prime Minister wants to make a statement...

Shri Jawaharlal Nehru: I wish to read out to the House his letter of resignation because normally a statement by a Minister is related to his letter of resignation.

Dr. Deshmukh: How does it arise, since the statement is not there ?

Mr. Deputy Speaker: It arises this way. We have Ministers introduced to the House when a Minister is appointed under the direction or on the advice of the Prime Minister. It is open to the Prime Minister to read the letter of resignation to the House.

Dr. Deshmukh : It is the privilege of a Member to make a statement. If that is lacking I do not know under what rules you are proposing to act and how the necessity for any other statement arises.

Mr. Deputy Speaker: It is always open to the Chair to allow any statement to be made on behalf of the Government.

Dr. Deshmukh: I do not object to that. I want to point out how it arises out of the situation that arose this morning.

Mr. Deputy Speaker: The Government wants to make an explanation regarding a particular matter and where all persons are interested an opportunity should be given.

Shri Jawaharlal Nehru : As you know, Sir, so far as I am concerned I was expecting him to make his statement and if I may say so with all respect. I did not know that the statement would not be made then or that you would fix another time for it. I did not expect the developments as they occurred. But since this has happened and the statement has been published in the press or is going to be, I think the House would be interested greatly in the letters exchanged. I am not referring to the statement in the least, but I am referring to the letters exchanged between Dr. Ambedkar and myself.

The first letter he wrote to me does not refer to his resignation and is dated the 10th August 1951. It reads :

New Delhi.
10th August 1951.

My dear Prime Minister,

My health is causing a great deal of anxiety to me and to my doctors. They have been pressing that I must allow them a longer period of about a month for continuous treatment and that such treatment cannot now be postponed without giving rise to further complications. I am most anxious that the Hindu Code Bill should be disposed of before I put myself in the hands of my doctors. I would, therefore, like to give the Hindu Code Bill a higher priority by taking it up on the 16th of August and finish it by the 1st of September if opponents do not practice obstructive tactics. You know I attach the greatest importance to this measure and would be prepared to undergo any strain on my health to get the Bill through. But if the strain could be avoided by getting through the Bill earlier I am sure you will have no objection. In proposing 16th August, I am allowing priority to all urgent Bills such as those relating to the Punjab, the Ordinances and Shri Gopalaswami Ayyangar's Bill relating to Part C. States.

I write this because I heard that in the last Party meeting you are reported to have said that the Bill may be taken up in the first week of September. I am sure that that was merely your suggestion. It was not your decision.

With kind regards.

Yours sincerly,

Sd/- B. R Ambedkar.

I wrote to him the same day :

10th August 1951.

My dear Ambedkar,

I wrote to you yesterday about the Hindu Code Bill. Today I got your letter of the 10th.

I am sorry that your health is causing anxiety. I suggest that you take things a little easy.

About the Hindu Code Bill, you know that we have a good deal of opposition not only inside the House but outside. With the best will in the world, we cannot brush aside this opposition and get things done quickly. They have it in their power to delay a great deal. We must therefore proceed with some tact and with a view to achieve results. I am anxious that the Bill should be passed in this Session.

The Cabinet decision was, and I think it was recorded in the minutes, that the Bill should be taken up at the beginning of September. I mentioned that at the Party Meeting and they agreed. For us to try to hasten it and bring it earlier would needlessly give a handle to our opponents and create trouble. Also it would be far more advantageous to have it early in September, after we have finished with some of the important Bills—the ordinances, the Part C States Bill, the Industry Bill. If we try to have the Hindu Code Bill before any of these, again that will create a furore and give a handle to others. I think that, taking everything into consideration, it is far better to stick to the dates we have announced and then go ahead with it. We shall be able to do so then with greater vigour and somewhat less opposition. Parliament is going to sit till at least the 1st week of October. So there is plenty of time.

Yours sincerly,

Sd/-Jawaharlal Nehru.

On the 27th September I received the following letter of resignation :

"For a long time I have been thinking of resigning my seat from the Cabinet. The only thing that had held me back from giving effect to my intention was the hope that it would be possible to give effect to the Hindu Code Bill before the life of the present Parliament came to an end. I even agreed to break up the Bill and restrict it to marriage and divorce in the fond hope that at least this much of our labour may bear fruit. But even this part of the Bill has been killed. I see no purpose in my continuing to be a member of your Cabinet.

I would like my resignation to take effect immediately. The only possible consideration that may come in the way of your accepting my resignation is the fact that there are certain Bills and Motions standing in my name and which have not yet been finished. But I feel that my absence may not be felt because these Bills and Motions can be put through by any other Minister of your Cabinet. However, if you wish that I should put then through before my resignation takes effect, I shall be prepared to stay on till they are finished but only till then. For I do not wish to deny the civility I owe to you and the Cabinet. In that event I would request that the Bills and Motions standing in my name should be given priority over others."

My reply dated the same day, that is the 27th September:—

"I have your letter of the 27th September. Two days ago news of your resignation appeared in the press and I was rather mystified. At the beginning of the session you spoke to me about your ill-health and I know of course that you have not been keeping well.

In view of your ill-health and your desire to resign from the Cabinet. I cannot press you to stay on. I should like to express, however, my appreciation of our comradeship during these years since we have worked together in the Cabinet. We have differed sometimes, but that has not affected my appreciation of the good work that you had done. I am sorry indeed that you will be going away.

I can quite understand your great disappointment at the fact that the Hindu Code Bill could not be passed in this session and that even the Marriage and Divorce part of it had ultimately to be postponed. I know very well how hard you have laboured at it and how keenly you have felt about it. Although I have not been intimately connected with this Bill, I have been long convinced of its necessity and I was anxious that it should be passed. I tried my utmost, but the fates and the rules of Parliament were against us. It seemed clear to me that nothing that we could do could get it through during this session. Personally, I shall not give up this fight because I think it is intimately connected with any progress on any front that we desire to make.

You say that you would like your resignation to take effect immediately. But you are good enough to suggest that you might stay on till some of the Bills and Motions standing in your name are dealt with. I shall look into this matter. In any event this session is going to last only till the 6th of October, that is a little more than a week from today. There is not much room left for priorities during a few days. We shall try to push in your Bills and Motions as soon as possible. I hope therefore that you will stay on till the end of the session.

With all good wishes to you".

To that he sent an answer on the 1st October:—

"I am in receipt of your letter dated the 28th September 1951, in which you have informed me of the acceptance of my resignation. Since you desire me to continue in office till the end of this session, which I understand will terminate on the 6th instant. I am prepared to fall in line with your wishes in this behalf.

I also like to inform you that on the 6th October 1951 I propose to make a statement in Parliament which a retiring Minister usually does."

My reply dated 3rd October was,—

"You can certainly make a statement in the house on the last day of the session. I do not know yet when the last day will be. It seems most unlikely that it would be the 6th October.

It, is possible that I might also like to make some statement following yours. I should be grateful, therefore, if you could send me a copy of the statement you intend to make."

Dr. Ambedkar's letter of 4th October:

"I am in receipt of your letter No..... dated October 3, 1951.

You have said that I should make a statement in the House on the last day of the Session. Does this mean that I should not make my statement on the 6th. If the 6th does not happen to be the last day of the Session ? I should like to have a clear idea about the day on which I am to make my statement. For I have to inform the Deputy Speaker.

I observe that you wish to make a statement following mine. It is not customary to make a statement such as the one you propose to do. You are free to exercise any right which the Rules of Business give you. Personally I will raise no objection to your making a statement following mine. Regarding your request for an advance copy of my statement, as you know, I am not in the habit of writing out my speeches' or my statement. So far I have not written out the text of my statement. If I find time to write out my statement in time. I shall be glad to send you an advance copy thereof. How far in advance I am of course unable to say."

My letter to Dr. Ambedkar, dated 4th October:—

"Your letter of the 4th October. It is clear to me that the session will last at least till October 11th. I informed the House so. If it suits you, you can make a statement on that day.

As regards my making a statement, I have not definitely decided to do so. But I thought perhaps I might like to say a few words on that occasion."

Dr. Ambedkar's letter, also dated the 4th October:—

"As suggested in your letter No. 3373-PM dated 4th October. I am agreeable to your proposal and will make my statement in the Parliament on the 11th October. I have spoken to the Deputy Speaker and he has agreed to allow me to make my statement on that date after the business standing in my name, namely the Delimitation Order, is finished."

That was the last letter, Sir.

***Shri Kamath :** Before we proceed further, may I have your permission to ask whether yesterday, Dr. Ambedkar, who is now present in the House, was informed that the correspondence between him and the Prime Minister was going to be read in the House ? It was only fair,—and courtesy to the Minister demanded it—that he should have been informed that his correspondence was going to be read. If he was not informed, the House ought to know why he was not informed. I do not know whether he was informed or not. He might tell the House whether he was informed or not.

Mr. Deputy Speaker: I am not primarily concerned with all that. When the spokesman of Government wants to read out certain papers in connection with this, I naturally allow that. Apart from that, I fixed 6 O'clock for Dr. Ambedkar to make his statement. At that time, he was not present in his seat. Then, all relevant matters relating to that and these letters were read. It was expected ; therefore no special notice need be given.

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*P. D., Vol. 16, Part II, 12th October 1951, pp. 4751-53.

Shri Kamath : But, was the other party to the correspondence informed ?

Mr. Deputy Speaker: If he chooses to be absent, what can be done ?

Shri Kamath: He left the Chamber, saying that he had resigned. Would he have been permitted to make a statement as an ex-Minister ? I think he was not told that at 6 O'clock the correspondence would be read.

Mr. Deputy Speaker: Making a statement is not as a Minister, not while in office, but after resigning. Whatever may be the point of time, one minute after resignation, he ceases to be a Minister; he is an ex-Minister. According to the rules, a Member who has resigned his office of Minister may, with the consent of the Speaker make a personal statement in explanation of his resignation. The moment he resigns and it is accepted by the Prime Minister, whatever may be those rules, I am not concerned with that, when he resigns and wants to make a statement, he does not make a statement as a Minister. At that time, he is only an ex-Minister. I would not allow any surprises to be sprung upon me. If the hon. Member wanted to raise any question, if he had either talked to me in chamber or told me in advance. I would have referred to these matters. Let us not continue this further.

Shri Kamath: May I submit, again, that this surprise was sprung yesterday by the correspondence being read. As Dr. Ambedkar is present today, will you permit him, if he so desires, to make a statement on the correspondence read out yesterday ?

Mr. Deputy Speaker: I am aware that the hon. Member is quite able to take care of himself. All I wish to say is that I cannot answer hypothetical propositions here. Therefore, if the hon. Member wants to do any particular thing himself, if he himself is anxious or wants to make a statement or do something like that, I shall consider the matter.

Dr. Ambedkar (Bombay)**:** I only want to make just two observations, with your permission. When I left the chamber, I think I was quite sure that I left the impression upon the House and upon yourself that I would not be prepared to make the statement at six o'clock. I think I made that quite clear. I am not asking for an opportunity now, or saying that I feel injured by the prime Minister having read out the correspondence at six o'clock, knowing full well that I had stated clearly in the morning that I was not going to obey the observations that you had made, that I should make a statement at six o'clock. Whether it was justified on the part of the Prime Minister or not I leave it to you, without first informing me that he was reading out the correspondence. That I leave to you and the Prime Minister, because I know there are other channels open to me of correcting any wrong impression that the correspondence might have made.

Mr. Deputy Speaker: It is always open to the hon. Member to change his mind: but I had fixed six o'clock and six o'clock stands. Therefore I was observing that the hon. Member was not in his seat at six o'clock.

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(Dr. ambedkar's statement in explanation of his resignation from the Cabinet was distributed to the Press and also to the Members of Parliament which has been included as Annexure I in Part II of Vol. 14 in this Series— *Ed.*)

SECTION VII

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TO
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SECTION VII

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(44)

THANKS ON ADDRESS BY THE PRESIDENT

***Mr. Chairman :** All I can say is that there are certain amendments which by no stretch of imagination can be brought under discussion of matters referred to in the President's Address. There are certain questions like food production, land revenue, foreign policy and preventive detention which are referred to in the President's Address and the amendments which have a bearing on them may be moved.

Shri H. P. Saksena (Uttar Pradesh) **:** Have all the amendments that have been presented been admitted or not ?

Dr. B. R. Ambedkar (Bombay) **:** The procedure followed in the Provisional Parliament was this. Perhaps it is not a new thing. It is going on for the last two or three years since the Constitution has come into operation. As far as I remember—there are many Members of the Lower House; they will correct me—the procedure followed by the Speaker of the House of the People was that he would allow all the amendments to be moved in the beginning. Of course, those were amendments that could be admitted. Subsequently, he called upon the proposer of the different amendments to make speeches in support of their amendments. It was always understood that because a person has moved his amendment, he necessarily will not have any right to speak. But the Speaker, out of consideration for the fact that certain gentlemen had indicated their intention to move an amendment, did allow them a chance of making a speech. That was the procedure that he adopted. I think the same procedure might be adopted here also.

With regard to one other observation, I should like to say with the deepest respect that in making the reference to what

* Parliamentary Debates (Council of States) Vol. I,' 19th May 1952, pp. 81-83.

happens in the House of Commons, you indicated that only those amendments which refer to subjects which have been expressly mentioned in the Address of the President would be admitted. With all respect I think that the rule ought to be the other way round. The purport of a debate on the Address is this. Government is pleased to inform the House, through the Address of the President, the subjects to which they allot what may be called priority or urgency. Article 87 of the Constitution of India says that the purport of the debate on the Address of the President is to inform Parliament of the causes of its summons. The purport of the Debate on the Address is to let the Opposition tell the Government what are the purposes which they ought to have included. Therefore, any subject which is not included in the Address of the President, for that very reason becomes a matter of urgency, because, Members of the Opposition may feel that Government has given priority and urgency to matters which they think important but which, in the opinion of the Opposition, are less important than other matters. Secondly, I submit that merely because an amendment refers to a subject which has not been referred to in the Address of the President, it should not on that account be ruled out. But the Opposition should be given an opportunity to discuss and to place before Government any particular subject, which is the subject matter of the amendment, as a matter of urgency which must be given priority over subjects which have been spoken of by the President in his Address. I thought I should make these observations so that you might be in a position to regulate the procedure about the amendments.

The LEADER of the COUNCIL (Shri N. Gopalswami):

I greatly sympathise with the point of view which has been urged by my hon. friend Dr. Ambedkar .....

Dr. B. R. Ambedkar : Nobody is "Honourable" in this House any longer.

Shri N. Gopalswami : I referred to him as "my hon. friend". That is not taboo.

Sir, the real point for our consideration on this question is whether the Constitution and the rules that have been framed for the procedure of this House permit of giving effect to the suggestion that has been made by my hon. Friend.

***Dr. B. R. Ambedkar** (Bombay)**:** I had originally thought not to participate in this debate, because I felt that it was right and proper that the new Members of this House who are sitting on the front Opposite Bench ought to be given the fullest chance to express their views on these important matters dealt with in the speech of the President. But some of my friends said that it would be useful if I said what I felt about the two important matters which undoubtedly loom large before the minds of some Members of the House at any rate and a large majority of the public. The first matter which looms large is obviously the matter of food. There can be no doubt that this country has found itself in the grip of one of the biggest problems that it has ever been called upon to face. Sir, as a younger boy, I had witnessed famines myself because my father was engaged as some kind of a cashier to pay the wages of many people who were engaged in famine relief work. I was living with him as a young boy and I could see the condition of the famine-striken people. As a student of economics I had the opportunity of reading those magnificent. books by one of the greatest Indian civil servants namely, Romesh Chandra Dutt, who had given a complete picture of the periodical famines that had taken place in this country, right from the beginning when the British came to occupy. But, Sir, remembering all this past history, my imagination cannot recall anything that I have seen or anything that I have read in any way comparable to the condition that we see today. I think it would not be an exaggeration to say that there was a time when there were famines but they occurred sometime at an interval of 10, 15 or 20 years. Today we have reached a stage when there is a famine almost every month in this country. This month there is a famine in Bihar, another month there is a famine in Rayalaseema, a third month there

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* P. D. (Council of States) Vol. I, 21st May 1952, pp. 266-69.

is a famine in some other part of the country. I think it would be impossible for any person who reads newspapers to say that any month has passed when there has not been a famine in this country. I was quite interested to listen to the argument which has been urged by some Members of the *Congress* Party that the Opposition should not be too hard on the Government. The Opposition must remember that when the British left, they left this country as an empty shell, with the resources undeveloped, with the people of this country untrained for economic production. Those arguments, if I may say so with all respect, are without substance. It may probably pass muster in this House or may pass muster with those who are inclined towards the party in this House. But I should like to tell even my friends who are sitting on the Opposite side that this excuse will not go down for a long time with the people…….

An hon. Member : You were yourself in the Government once.

Dr. B. R. Ambedkar : Don't you recollect my past. I am now a divorcee. What I want to tell my friends on the other side is that this excuse will not serve them for a long time. No hungry man is going to be sympathetic to a critic who is going to tell him "My dear fellow, although I am in power, although I am in authority, although I possess all legal power to set matters right, you must not expect me to do a miracle because I have inherited a past which is very inglorious." If this Government will not produce results within a certain time, long before the people become so frustrated, so disgusted with Government as not to have any Government at all, a time will come when I suppose unless we in Parliament realise our responsibilities and shoulder the task of looking after the welfare and good of the people within a reasonable time, I have not the slightest doubt in my own mind that this Parliament will be treated by the public outside with utter contempt. It would be a thing not wanted at all.

Sir, the situation has been greatly aggravated by the sudden decision the Government has taken with regard to this subsidy. The subsidy is in another way an additional project

which the Government has undertaken to relieve the people against the high cost of living. The subsidy, so far as our information goes, has been in operation.....

Shri B. B. Sharma (Uttar Pradesh)**:** What percentage of the population does the hon. Member want to be subsidised for food ?

Dr. B. R. Ambedkar : Sir, my submission is this that he will not want me to go into the details of the rationing system. I do not want to go into details as to how the population should be classified so that we might be in a position to say that the following classes shall be subsidised and the following classes shall not be subsidised. That information Government has not placed before us. If the Government places that information before us, I certainly will be able to make such contribution as I can make to that proposal. For the moment I am saying this, that this reversal of the policy of giving subsidy seems to me an absolutely new thing. I find that from1946-47, when the subsidy made was 22 crores, it has increased in 1951-52 to 36 crores. In the last Budget which the Finance Minister presented to the Provisional Parliament for the purpose of obtaining a vote on account, he had estimated that the subsidy which he might be prepared to give in this year would come to about 25 crores. That was the estimate that he had made. I am sure about it that at the time when he presented the Budget he must have been ready in his mind to commit himself to that magnitude of expenditure. Suddenly thereafter we find this sudden change. Some reasons have been given. One reason is that the subsidy would come to about 55 crores. Some Members have said it would be about 90 crores. I do not know what the correct figure exactly is.. But I do want to say that even in the last Provisional Parliament, when the Budget was presented, Government was agreeable to take upon itself the responsibility of a subsidy to the extent of 25 crores. I do not quite understand why the Government has stepped aside from that promise, from that obligation. There are of course .....

Mr. Chairman: Your time is up. You can take one or two minutes **more.**

Dr. B. R. Ambedkar: I have something else to say. It will not be possible for me to finish within the one or two minutes that you are very gracious to give me. I will stop here.

(45)

BUDGET (GENERAL) 1952-53 GENERAL DISCUSSION

*** Dr. B. R. Ambedkar** (Bombay)**:** Mr. Chairman, I propose to begin from the point from which I had to leave off, before, my observations on the President's Address. The House will remember that when I had to break off, I was dealing with the question of food subsidy. Today I find myself in a much better position to deal with the matter, because in the interval we have had a statement from the Finance Minister justifying why he has taken what might be called a 'political roundabout'. The explanation that the Finance Minister has given is an explanation which I think is more intended to frighten people from demanding any subsidy with regard to food. His explanation is this, that if he at all must do anything in the matter of food subsidy, he must do it in a manner so that he might be able to maintain the price level at the level it stood in the last year. That is, I believe, his starting premise. And then he develops this premise by saying that if on the basis that the subsidy is given only if he maintains the last year's price level, if the subsidy is to be confined to industrial areas, he would be required to pay Rs. 60 crores; and if that subsidy is to be extended to the rural area, he will be required to pay Rs. 90 crores. Obviously if these figures are correct, they are quite calculated to moderate the spirit of the great enthusiasts who want some kind of food subsidy to be given, so that the misery of the cosuming classes may be alleviated to some extent. So far as I understand, nobody has pitched his flag so high as it has been represented to be by the Finance Minister. So far as I have been able to pursue the discussion that has been taking place in the various newspapers, nobody has said that you must give subsidy to such an extent and on such a magnitude that the price level of this year would be the same as the price level of last year. Nobody is

* P. D. Vol. I of 1952, 27th May 1952, pp. 469-80.

demanding that. Secondly, Sir, with regard to the question of the rural demand which has been put forth by the Hon. the Finance Minister as a ground for refusing subsidy, I am sorry to say that he has now agreed to accept that contention when the same has been urged upon him for the last several years and which he has repudiated all along. I am sure that it has been the demand of the provincial Ministers that if you are giving subsidy, you must not make a discrimination between the industrial population and the rural population. You must give subsidy to all or you must give subsidy to *none*. That has been an old old argument. But I do not remember a single Finance Minister or a single Food Minister—and we have had a series of them one after the other—having ever agreed to that proposition. It has always been the policy or the contention of the Government of India that in the matter of allocating subsidy, certain classification must be made. A classification must be made ……..

The Minister for Finance (Shri C. D. Deshmukh): On a point of information, Sir. The system of subsidy whereby only industrial towns were subsidized was adopted only last year.

Dr. B. R. Ambedkar: Sir, the demand that the subsidy should be extended to the rural area is not a new thing at all. No Government of India, so far as I remember, has ever agreed to that demand.

Shri C. D. Deshmukh: What I meant was that before last year the subsidy was given to rural as well as urban areas; so, no such contention could have been made.

Dr. B. R. Ambedkar: If that is so, then it is all the worse for the Finance Minister, I should say if in the past you have accepted the demand that subsidy should be given to all, then I do not quite understand why you should resile from that position now.

Shri H. N. Kunzru (Uttar Pradesh)**:** Whatever may be the demand, he has said in this connection that subsidy was given not merely to industrial centres, but to all urban and rural areas. Is that a fact ? Was subsidy given to those rural

areas where there was a large heavy deficit in the country as a whole, in accordance with the recommendation of the first Food Policy Committee ?

Shri C. D. Deshmukh: My point was that the subsidy was not confined only to the industrial areas except during last year.

Dr. B. R. Ambedkar: My contention has been that because you cannot do the very best, let not the better be the enemy of the good. Do whatever good you can; if you cannot do it better, the country will be prepared to excuse you, because of your limited resources. But because you are not preparing to do even the good, when you agree to do it, by making a provision of Rs. 25 crores in the Budget, I think the public will have a legitimate right to complain.

Sir, I would like to draw the attention of the Finance Minister to what the Chancellor of the Exchenquer has done in England in the course of his Budget. He knows, I think, much better than I do. I have collected my facts from newspapers and other magazines where I have been able to find a certain analysis of the Budget presented by the Chancellor of the Exchequer to the House of Commons. Now, Sir, confining our attention to the matter of food subsidy, I find that in the year 1950 in England, the food subsidy was £480 million. In the last Budget the subsidy has been reduced—there has been a cut of £160 million. Well, so far as this part of the Budget of the Chancellor of the Exchequer is concerned, probably the Hon. Finance Minister may take comfort in the fact that after all he is not doing something different from what the Chancellor of the Exchequer has done in England. But if you look at the other side of the picture of the Budget presented by the Chancellor of the Exchequer in England—taking the other side, the counter-blancing proposals of the Chancellor in England,—I find that while the subsidy has been reduced, there has been an increase in income-tax relief to the extent of £2.228 million. Secondly, there has been an increase in family allowances to the extent of £37 million. There has been a considerable increase in pensions. There has been an enormous increase in the housing

subsistence. Now, all these reliefs which have been provided for by the Chancellor of the Exchequer in his Budget beyond question have the effect of increasing the purchasing power of the consumer. If there is so much increase in the purchasing power of the consuming community, it matters very little if the subsidy has been reduced by £167 million.

What are the reliefs that our Hon. Friend the Finance Minister has provided for in his Budget ? Nothing. The level of taxation, whether of direct or indirect character, is just the same. The purchasing power of the people remains where it was. In addition to that, he is now increasing the cost of food. This I find to be a fundamental difference in the approach of the Hon. Finance Minister to the problems of the people and that of the Chancellor of the Exchequer. I think my Hon. friend the Finance Minister may well consider whether he might not copy something from what the Chancellor of the Exchequer proposes to do in England for increasing the welfare of the people.

Now, Sir, I have not been able to exactly understand what position the Hon. Finance Minister proposes to take. 9-00 A.M. But I want to put it in the best light because I know he is an honest person with the greatest good of the people at his heart. What is he trying to do ? So far as I have been able to understand the policy of the Government of India with regard to food, I do not think that the Hon. Finance Minister is opposed to subsidy. If I put his position correctly as I understand it, he is in favour of subsidy, but his position seems to be that the subsidy instead of being granted to the consumer ought to be granted to the producer, either in the form of grow more food grants or in some other way. His object, logically speaking—I do not find any difficulty in accepting its validity—is that if you produce more food in the country, prices will fall, consumers will benefit and subsidy to the consumer may then not be necessary. I believe that I have stated his position somewhat correctly if I have understood it. He wants subsidy, but he wants it to be given to the producer and not to the consumer.

Well, Sir, that may be one kind of approach, different though it may be from the line of approach which some of us take. The question I think that we have to ask with regard to this attitude is this : Which is going to benefit the people quickly ? So far as this subsidy for the grow more food policy is concerned, I do not think that it could be contended by the Government that that subsidy has been of any consequence so far as the production of food is concerned. I think it is not necessary for Members of the Opposition to cite any authority when we know as a matter of fact that the Reserve Bank, in one of the investigations which it undertook, reported that the grow more food policy has been a complete failure. Obviously, therefore, the policy of not giving subsidy to the consumer, but giving it to the producer, has not produced the effect desired by the Hon. Finance Minister.

The second thing which I find why this emphasis on the grow more food has failed is because of the contradictory policy which the Food Department or the Government of India, has been following. On the one hand, they have been giving subsidy to farmers and others to provide more food. At the same time, they are giving encouragement for the production of what are called cash crops, which are every moment competing with the production of food. A farmer finds it much more to his advantage to produce cotton-seeds, black pepper and things of that sort. He does not care for the growing of more food. Surely, if the Government's objective—and firm objective—is to produce food, Government ought to have taken some steps in order to curb the tendency on the part of the farmers to produce something other than food. That, Government has not done. The result is that we have in this country two competing economic activities so far as agriculture is concerned, the cash crops *versus* food production.

The result is that notwithstanding the Grow More Food Campaign and the amount of money that has been spent, we have not been able to produce more food so as to make any impression upon the food prices. The question that I would like to ask the Hon. the Finance Minister is this. Would he or would he not realise that if his object is to reduce prices by the production of more food, and if that object has failed,

would he still continue to penalise the consumer and not give him any subsidy or offer him any kind of relief from the distress from which he is suffering ? That is the point. There is no dispute that some kind of subsidy is necessary in this country in the situation in which we find ourselves. The whole question is, at what point the blood may be supplied, at what point the subsidy may be given, to the producer or the consumer. I make this observation in the hope that the Hon. the Finance Minister will reconsider the line that he has been pursuing, namely, that our immediate problem could be solved more by giving subsidy to the producer and not to the consumer. He may succeed. As we know, originally, our Government, when I was a member of it, had announced that we must achieve self-sufficiency by the year 1952. Our Prime Minister, day in and day out, emphasised that after 1952 we shall not import a single grain of food from outside. Today, I think I am right in saying that the Government of India have realisd that reaching self-sufficiency in 1952 was an idle dream. They have now proclaimed that we will achieve it by 1956. God only knows. The target is always receding; it goes back and back. We do not know for how many years the consumers in this country will have to undergo this agony and allow the Finance Minister and the Minister of Food to delay the thing, by trying as if in a laboratory, the various ideas, the various proposals and the various schemes they have in their mind. I do not wish to dilate upon this subject any more.

Sir, I would now say a few words with regard to the General Budget as a whole. The Budget undoubtedly in every country is an expression of the function which a Government undertakes towards its people. There was once a time in this country when the function of the British Government was to collect taxes and to maintain law and order. The welfare of the public, the well-being of the people, their educational advancement, public health, unemployment, or any of those remedies and reliefs, which were now found functioning on such a large scale in the Budgets of the various European countries, had no place. Not only they had no place in the Government but the Government itself had not accepted any liability on that

account. We thought and we hoped that when this country became independent, that aspect of the matter would change, that the Government would not be merely a Government of an agency to collect taxes and a magistrate to punish people for wrongful action, that the Government would do something more, that the Government would assume the function which all civilised Governments have assumed in the 20th century. Sir, can anyone scanning the Budget which has been presented to this House say that they can find any trace of any other functions, which all modern civilised nations and States assume to themselves, reflected in the Budget of the Finance Minister ? I can find nothing. We are still repeating the old history of the British, namely, to collect taxes, to punish offenders. No provision is made for all the social benefits which are conferred upon the poorer and the lower classes in other countries in the world. I want to ask the Hon. the Finance Minister : "Can he promise us, as he had been promising in the case of the food subsidy, that we will be self-sufficient in food in 1952, if not in 1952 it shall come in 1956, if not in 1956 it shall come in the year 1960 ?" There is some hope, so long as there is a fixed day or a promised day of the arrival of the new regime. Can he tell us that we can tread upon the path foreign countries have been following so far as social services are concerned ? He has said none. The whole thing in the Budget, to put it in a nut-shell—it has been put, I know, by other speakers before me—the crux of the whole matter in this country is that the Army is eating up into the vitals of the funds that are necessary for the well-being of this country. We have, in a total Budget of Rs. 404 crores, a sum of nearly Rs. 200 crores spent on the Army. It is difficult to understand this position. Sir, when peace came, an order of demobolisation was passed. It was decided by the then British Government that the Army of India shall be reduced. What do we find ? We find that in the year 1947, the revenue of the Government of India was somewhere about Rs. 172 crores. I am speaking of the Budget for the 8 months that was then presented from August 1947 to April 1948. The Military Budget then was Rs. 90 crores. Our revenue today has grown to Rs. 404 crores, and our military expenditure has also grown

to nearly Rs. 200 crores. It is an extraordinary thing that as your revenue rises, your military expenditure also rises. My view was that the reverse should be the process, that your military expenditure ought to go down. If you can reduce the military expenditure by a modest sum of Rs. 50 crores, how much good we can do to our people ? We can apply this reduction of Rs. 50 crores in the Army Budget to river valley projects. The Damodar Valley Project could be completed within 3 years out of our revenue Budget instead of having to go to foreign countries for aid. If we could spend that amount of Rs. 50 crores out of the military Budget for the betterment of our own people, what amount of good we can achieve ? But I have not been able to understand why the Government of India has been consistently and regularly increasing the military Budget. Sir, it is an extraordinary thing from another point of view. We have been told that our foreign policy is a policy of peace and friendship. My hon. Friend, Diwan Chaman Lall, called it the Nehru doctrine. If that is the object of the Nehru doctrine, it is a welcome doctrine provided it was observed by all. Now, if the object of the foreign policy of this country is to maintain friendship and peace throughout the world, I want to know who are our enemies against whom we want to maintain this huge army at a huge cost of Rs. 197 crores.

Shri J. R. Kapoor (Uttar Pradesh)**:** Our next door neighbour.

Dr. B. R. Ambedkar: I do not know that. If we were informed that our relations with certain foreign countries were not happy, that there might be any time a danger to our safety and to our security, it would be possible for most of us to agree that rather than wait for the arrival of the danger, we should keep the Army ready so that in an emergency we may face the danger squarely. But we are told that we have no enemy at all in this world. Then, why this army is maintained, I do not quite know. Secondly, the only possible enemy, if one may use that world, is probably Pakistan. And that too, on account of Kashmir. Now, with regard to Kashmir, I hope that this House will have a full

opportunity of discussing that question. I did not have time to say anything, nor did I think it right to spend just a few moments on a problem so great as that of Kashmir. But surely the matter is within the charge of the U.N.O., and I do not think that Pakistan would be so foolish as to invade Kashmir or to invade this country in the teeth of the U.N.O. decision on the subject. Therefore, again, why are you maintaining this Army? I am quite unable to understand the point.

Then, Sir, on our part we never seem to be able to realise that the sooner we settle this Kashmir problem the better for us, because if the excuse for this enormous is increase in our Defence Budget is to be attributed to the Kashmir tangle, is it not our duty to do something, to contribute something, positively in order to bring that dispute to an end ? I cannot expatiate on the subject, but so far as I have been able to study the part played by the Government of India in connection with the negotiations that have been taking place on the settlement of the Kashmir issue, I am sorry to say that I have not read a single word which I can describe as a positive and not a negative suggestion on the part of the Government of India to settle this question. All that they are dealing with is the question of military allotment. The question of plebiscite is in no way new in the history of the world. One need not go back to the ancient past to find precedents for settling questions of this sort by plebiscite. After the First World War, I certainly remember there were two questions to be settled by plebiscite. One w as the question of Upper Silesia and the other was the question of Alsace-Lorraine. Both these questions were settled by plebiscite, and I am sure that my hon. Friend Shri Gopalaswami Ayyangar, with his mature wisdom and sagacity, must be knowing of this. It is not possible for us to borrow something from the line of action taken by the League of Nations with regard to the plebiscite in Upper Silesia and Alsace-Lorraine which we can usefully carry into the Kashmir dispute and have the matter settled quickly so that we can release Rs. 50 crores from the Defence Budget and utilise it for the benefit of our people ?

I do not want to say much more, but I do want to say that most of us are feeling very keenly that the Defence Budget is the greatest stumbling block in the path of the welfare of this country.

There is one other thing to which I would like to draw the attention of the Finance Minister. He has already indicated in the course of his Budget speech that the prospect for this country, so far as taxation is concerned in the future, is not a very happy one. He himself has admitted that our income-tax revenue would not remain at the same level at which it has remained for the last two years. He knows very well that the export duty, which forms a very large part of the present revenue of the country, is no longer to be regarded as a permanent part of the revenue structure of this country. Export duties, which in all countries are of an unusual sort, extraordinary in their character, never can be regarded as a natural part of the tax structure of a country and depend upon conditions in foreign countries. The moment those conditions vary, you have got to vary the tax. You may meet with a situation where you may have to abandon such duties completely. The fear which I feel on account of the prospect in the decline of revenue is this : How is the Finance Minister going to make good the losses that might occur by the reduction of certain items on the revenue side ? Will he cut into the Defence Department's Budget, or will he cut into the Budgets of the other Departments which are ministering to the social welfare of the people ? I have no idea. If the opinion in favour of the retention of the armed forces at the present level of expenditure prevails, our conditions, so far as the welfare of the people are concerned, will deteriorate considerably. I want the Finance Minister to take note of this fact and tell us something about what he would do when such a prospect presents itself to him in the concrete.

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(46)

*ANDHRA STATE BILL, 1953

Mr. Chairman: Motion moved.

> "That the Bill to provide for the formation of the State of Andhra the increasing of the areas of the State of Mysore and the diminishing of the area of the State of Madras, and for matter connected therewith, as passed by the House of the People, be taken into consideration."

Dr. B. R. Ambedkar (Bombay)**:** Mr. Chairman, this is a Bill the object of which is to create a new State for the Andhras. As such it is the subject matter of the Andhras themselves. Others who are not Andhras can only take part in it in a general way, and solely because this new Province is a portent of probably some other linguistic provinces to come into existence. It is only because of the feeling of the latter kind that I have stood up today to say a few words.

Sir, when one goes into the Bill, one is very much puzzled as to whether one should congratulate the Government on the Bill such as has been brought forward before the house, or whether one should congratuate the Andhras who are clamouring for a separate Province. As anyone in this House knows, as soon as the Congress Party was organised and had a constitution in the year 1921, the first thing it did was to incorporate the principle of linguistic provinces. I have no idea that at any time from the year 1921 up to the year 1949 or these about, the Congress either ever withdrew that principle from its constitution or regretted having entered that principle in its constitution. In 1949 I believe—if I am wrong my friends will correct me—but I think that is about the year, when the Drafting Committee was sitting, and one Member of then Assembly tabled a Resolution for the formation of the linguistic provinces. I was in charge of the Law Department and as such the Resolution fell within my portfolio. I had to

* P. D. Vol. 4 (Council of States) of 1953, Part 1, 2nd September 1953, pp. 864-79.

consult my cabinet collegues in order to know what sort of reply I should give to this Resolution. They said that the better thing would be for me to transfer the Resolution either to the Prime Minister or to the late Sardar Vallabhbhai Patel which I very gladly did, because I did not want the responsibility to fall upon my shoulder for the answar that might be given to that. Resolution. It was then arranged between the mover of the Resolution and the members of the high command of the Congress, that although they were not prepared to accept the Resolution in all its generality so as 'to apply to all the multi-lingual provinces then existing, they were prepared to consider the question of creating an Andhra Province. The members of the Drafting Committee were waiting to know what exactly they should enter Andhra as a separate province in the Schedule of the States. Hon. Members who are particular to know about this will find in a foot-note to the first draft of the Drafting Committee's report that I referred to the Prime Minister in order to let me know whether Andhra should be entered in the Schedule to the Constitution, I got no reply, with the result that Andhra then did not become a separate province. It was a great surprise to me that when practically for twenty years, a party had stood by the principle of linguistic provinces, it should have developed cold feet after twenty years. Surely, 20 years was a long period for even the greatest dullared to think over the matter and come to a clear conclusion as to whether the principle that was adopted in 1921 was a mistaken principle and ought completely to be withdrawn, or whether it was a principle which should be pursued with certain modifications. The result has been that from 1949 up to this period, there has been a vacillating attitude on the part of the Government, once saying that there shall be no linguistic provinces, at another time saying, "Yes, we shall create an Andhra Province". And unless and until one honourable gentleman had sacrificed his life for the sake of creating an Andhra Province, the Government did not think it fit to move in the matter. I have no idea and I do not wish to be harsh on the Government; but I am dead certain in my mind that if in any other country a person had to die in order to invoke a

principle which had already been accepted, what would have happened to the Government. It is quite possible that the Government might have been lynched. But here nothing has happened. The Government is playing with the proposition.

The argument that has been brought forth by the Government is that if you create linguistic provinces, you will break up the unity of India. That has been the argument which one heard time and again from every member of the Government. Sir, I am surprised that such an argument should have been used. If anyone were to look up the Schedule of States attached to the Constitution, he would find that there are altogether 27 States filling up different parts—Part A, Part B and Part C. I am not taking into account Part D. Now, if you take up these 27 States, you will find that 23 States are linguistic States. Only 4 are multi-lingual. I should like to ask my hon. Friend, the Home Minister, whether he thinks that the 23 linguistic States which have existed from the very beginning of the Constitution have in any way done anything in order to disrupt the unity of this country. I would like him to answer that question. These 23 linguistic States have not been able to disrupt the unity of India. I am as keen as he is on maintaining the unity of India and I shall not support any step which will bring about the break-up of this country.

We have, by God's grace achieved not only independence but also unity, and it is our bounden duty, no matter to what party we belong, to see that this independence and this unity is retained. But, to say, in the face of this fact, with 23 linguistic States, that linguistic States would break up the unity of India is to say something which is puerile. They must produce some very weighty arguments in support of their contention that they cannot pursue a policy of creating linguistic States.

Now, Sir, coming to the Andhras on whom this blessing is showered by the Government after such a long delay, what do they get by it ? First of all, as I look at the Bill, I do not, find anywhere mention about the capital of this new State of Andhra. The capital is the very life source of a State. I cannot understand how one can imagine a State without its capital. In fact, it is the capital that give life to the States.

There is no mention of it at all. Who is to create this capital ? Is it the Legislature of the new Andhra State which is to meet and decide what is to be its capital ? Is it the Executive Government of the new State which is to sit at some place and decide that the capital of the new Andhra State will be this ? There is no indication at all in the Bill, as to which is the authority which is to create this capital. Reading from the newspapers it does appear that there is no unanimity *among* the Andhras on the question of the capital. There is a section which wants Vijaywada, there is a section which wants Kurnool and those in favour of Kurnool I think, won by one vote or so. In a situation of this kind, I think the Government would not have fallen—I am sure about it, they have an enormous majority to beat down any opposition—if they had taken courage in both hands and said that, "in our judgement this should be the capital," leaving liberty to the Andhras at a later stage to change it if they so liked. Sir, in connection with this question of the capital, there is one point which I would like to mention. I do not know what is the town that is going to be selected as the capital of the Andhra State, but, any how, everybody seems to be taking that whatever town is selected for the purpose of a capital, it shall be a temporary capital. That is what I hear. Now, Sir, it strikes me—whether they select a town which is Vijaywada or Kurnool or some other place—that they may be spending a certain amount of money for the construction of the necessary buildings for the housing of the capital. Surely, there must be the Secretariat: surely, there must be the houses for the Ministers .....

Shri C. G. K. Reddy (Mysore)**:** That is very important.

Dr. B. R. Ambedkar: ..... and various other things in order that the capital may come into existence. I have no idea of the amount of money the new Andhra Government proposes to spend on the creation of this temporary capital. After what is being said that this will only be a temporary capital and that the permanent capital will be selected at a later stage, what would happen ? In my judgement, what would happen is this : the five crores of rupees or so that might be spent initially on the construction of a temporary capital would all be a waste and another five or ten crores of rupees will have

to be spent on what the Andhras might regard as the permanent capital for their new State. I do not know whether the Hon. the Home Minister or the Hon. the Finance Minister who, I believe, in his most charitable way gives grants to anybody who wants to come and ask for a grant, is prepared to give five crores of rupees for a temporary capital and another five or ten crores for a permanent capital. That would certainly be a wonderful way of managing the finances of this country.

Then, Sir, looking at the financial position of the new State, it has been shown that the new State will begin with a deficit of Rs. 5 crores. Many optimistic Andhras who are more keen on having an Andhra State than on stability told the investigator—Mr. Justice Wanchoo—that, in their judgement there were a variety of means whereby they could bridge the gap and make the State self-sufficient.

Mr. Justice Wanchoo examined every one of the suggestions that were made to him by the various parties of the Andhra people; and he has, in unmistakable terms, said that all these are fertile imagination and that it is neither possible to increase the revenues of the new State, nor is it possible to reduce the expenditure; at the most, anything may happen either by the way of increasing the revenue or by the way of reducing the expenditure. Nonetheless, the new Andhra State will begin with a deficit of Rs. 2 crores. That is the least that the Andhras will have to face to begin with. Well, it is the concern of the Andhras whether they could make good deficit which may be Rs. 5 crores or which may be Rs. 2 crores; we have not much to say about it; it is for them.

Then there is a third point which I would like to put to my hon. Friend the Home Minister. It seems to me that my hon. Friend has not considered what I might call the demographic picture of the Andhra State. What is the social composition of this State ? When I am dealing with the social composition of Andhra, I beg of my Andhra friends not to mistake me. It is not that I am making the statement, which I am about to make, by way of accusation against the Andhras, but it is a general proposition which I am enunciating and which I shall develop at the conclusion of my speech.

Sir, as I said, I am not an Andhra. But I belong to what might be called a political group—I shall not give it the honorific name of a 'Party'—which is called the Scheduled Caste Federation. As the Leader of that group. I had the occasion to move round in the Andhra country in order to see what the condition of the Scheduled Castes there is. My picture is this that, in this Andhra country, there are, as everywhere else, as I am going to show, some big communities and some very small communities. Of the big communities, the biggest, I believe, is the Reddy community; below the Reddys come the Kamma; below the Kammas come the Kappu; and below them come the unfortunate Scheduled Castes people working as landless labourers. That is primarily the picture of this area. As I said, this is not a lonely case. There are many other areas of the same pattern.

The second thing I noticed is this that all the lands practically are in possession of the Reddys. The Reddys are the biggest landlords there. Next, probably, come, the Kammas, to which my friend Professor Ranga belongs. I was told very recently how great is this evil; I was told in a very vivid way by one of the Congressmen himself. I do not know whether he would feel offended if I mention his name. It would lend great authority to the statement that I am making, but I shall not mention his name as I have not asked him.

An hon. Member: Is he a Member of this House ?

Dr. B. R. Ambedkar: He is a Member of the Lower House.

Dr. K. N. Katju: I do not like it to be called the Lower House.

Dr. B. R. Ambedkar: When we were discussing this question, my friend told me that that was by no means peculiar. There was a certain village in the Andhra area. The entire land of the village measured 1,400 acres. Out of that, only 14 acres were owned by private individuals; the rest of it was owned by a single Reddy. One has just to imagine the picture .....

Shri P. Sundarayya (Madras) **:** Let us confiscate it.

Dr. B. R. Ambedkar : I have no idea what they have done. The third fact he told me was that all trade in the village was in the hands of the Reddys

An hon. Member: What is wrong ?

Dr. B. R. Ambedkar: The lowest village officer is also a Reddy; the 'mulki' is also a Reddy. Well, Sir, I want to know for myself, especially in view of the fact whether the reservation, which was so blissfully granted to us by the Congress Party for ten years, is going to disappear.

An hon. Member: You accepted it.

Dr. B. R. Ambedkar: Yes, what else can one do; if you can't get *puri* you must get *roti*. Sir, in view of the situation that is obtaining there, you can imagine what is likely to be the position of the Scheduled Castes. What provision has my hon. Friend made for the purpose of granting protection against tyranny, against oppression, against communalism, that is sure to be rampant not only in the Andhradesh but everywhere in the States similarly situated. One of the greatest regrets that I have is that the Home Member, whose duty it is to see that every citizen is well protected against the tyranny of the majority, has come here with a Bill with no idea, with no conception as to what the State is likely to be and what is likely to happen to millions of people. I know, Sir, he is a high born person.

Dr. K. N. Katju: Who ? I ? I started life in a normal manner .....

Dr. B. R. Ambedkar: But the fact is that he is a Kashmiri Pandit. Even if he takes to the profession of a Bhangi he will still remain a Kashmiri Pandit. He may never suffer. All people may respect him for his ancestry, for his noble birth, for his learning. What about us who have been tyrannised for the last 2,000 years ?

Shri H. P. Saksena (Uttar Pradesh)**:** But we all respect you.

Dr. B. R. Ambedkar: I may die in ten years time. Now, Sir, these are the three considerations which I thought I should urge before my hon. Friend, the Home Minister, for his consideration. There is still time even in this House, if he likes.

Shri K. S. Hegde : Is it the suggestion that Andhra should have a different tradition altogether ?

Dr. B. R. Ambedkar: I am going to suggest that. That is what I am going to tell him, that he has not applied his mind to this subject.

Shri K. S. Hegde : That will be applicable to all the States.

Dr. B. R. Ambedkar: I have said so.

Shri K. S. Hegde: It is a general proposition.

Dr. B. R. Ambedkar: Wait a minute now, please. Mr. Chairman we are not going to finish our troubles with the creation of the Andhra State. There are plenty of other States which are making a similar demand and I think it is therefore necessary for the Government to find out whether there are any other ways and means whereby we could keep the multi-lingual provinces as they are, and remove the feelings and the lots of blemishes that arise therefrom and only in excusable cases resort to the creation of a linguistic State, I have been devoting a certain amount of attention to this question because I know that this is going to be one of our most crucial questions. Sir, my suggestions are two-fold. Wherever I find a multi-lingual State I would vest the Governor there with certain special powers to protect the minorities in that State. That is one proposition that I would place before the Government for its consideration. I shall presently cite some authority in order that they may not think that this is my imagination. I am going to cite some constitutional precedents. And the second thing that I would like to be done would be that in all such States where there are multi-lingual people you should establish by law committees of members belonging to different linguistic sections which would have the right to hear and the right to ask the Ministry whether they are doing justice to their

problems. Also they should have the right to appeal to the Governor to set aside any act of injustice that might have been done to any one section. I think, if these three things are done, we should be able to keep the States as they are, at any rate in the first stage. If ultimately we find that we do not succeed even with these measures, then fate may take us to the logical extreme end, namely, to have a linguistic State.

Sir, in the case of creation of linguistic States, in my judgement there appear to me to be two considerations. One is that the linguistic State must be a viable State. It may be that this is a small State which has got a culture and which has got a language and which has got a separate feeling and an entity. Yet it is so small that it cannot find the means of carrying on its Administration. People do not live on culture. People do not live on language. People live on the resources that they possess. But if God has given them culture and God has given them language but God has not given them the resource, I am afraid they cannot have the luxury of having a separate linguistic State, The second thing is this. It is only in our country that we find that linguistic provinces create difficulty. I would like to ask the question as to why there are no difficulties in Switzerland although Switzerland itself is a multilingual unit. The Cantons have French, German and Italian. Yet they are a very happy nation and they are the most prosperous nation today. Why is it that Switzerland has no provinces although it is a multi-lingual unit ? The answer which I can *give* is this that linguism in Switzerland is not loaded with communalism. But in our country linguism is only another name for communalism. What happens when you create a linguistic province is that you hand over the strings of Administration to one single community which happens to be the majority community and I can cite many provinces where this is likely to happen. That community charged with a feeling of its own sacred existence begins to practise the worst kind of communalism which otherwise is called discrimination. Discrimination creates injustice and injustice creates ill-feeling. If our linguism was not charged with communalism our linguism would not be a danger to

us at all; but the fact is that it is. But it seems to me that in order to do away with the community practising communalism being in office these two remedies are worth while, namely, to give the power to the Governor to override and, secondly, to appoint small committees who can make representations either to the Ministry or to the Governor.

Now, Sir, we have inherited a tradition. People always keep on saying to me : "Oh, you are the maker of the Constitution". My answer is I was a hack. What I was asked to do, I did much against my will.

Shri P. Sundarayya: Why did you serve your masters then like that ?

Mr. Chairman: Order, order.

Dr. B. R. Ambedkar: But, Sir, we have inherited, on account of our hatred of the British, certain ideas about democracy which, it seems to me, are not universally accepted. We inherited the idea that the Governor must have no power at all, that he must only be a rubber stamp. If a Minister, however scoundrel he may be, however corrupt he may be, if he puts up a proposal before the Governor, he has to ditto it. That is the kind of conception about democracy which we have developed in this country.

Shri M. S. Ranawat (Rajasthan)**:** But, you defended it.

Dr. B. R. Ambedkar: We lawyers defend many things. (Interruptions.) You should listen seriously to what I am saying, because this is an important problem.

Sir, as I said, we happened to develop a theory of democracy, simply because of our opposition to the British. The British must go and the British must have no power. A Governor must have no power. Let me cite two cases.

One case which I propose to cite is about the Constitution of Canada and I refer to section 93 of that Constitution. As everyone in this House knows, Canada, like ourselves, is a billingual place. A part of it speaks English; a part of it speaks French. And what is worse still is that the English-speaking people are Protestants; the French are Roman Catholics. In

1864, when the Constitution of Canada was made, the Catholics were very much afraid as to what might happen to them under the English Protestant majority and they were not prepared to come into the Constitution of a united Canada. Therefore the Parliament enacted section 93 in the Canadian Constitution. That section does two things. It says that if any province—naturally the reference was to provinces in Protestant areas—where Roman Catholics lived passed any law with regard to certain matters which the Roman Catholics regarded as their special privilage based upon religion, they had the right to appeal to the Governor General that a wrong was done to them, and the Governor General by section 93 had the right to look into their complaint. It was a statutory right of complaint. Not only did section 93 give the catholics a statutory right of appeal against the decision of the majority to have a certain measure annulled, but it goes much further and says that the Governor General shall have the right to enact a positive measure in protection of the Catholic minority. I would like to ask my friend, the Home Member, whether, with the inclusion of section 93 in the Canadian Constitution, he regards the Canadian Constitution to be democratic or undemocratic. What is his answer ?

11-00 A.M.

Dr. K. N. Katju : My answer is that you had drafted this Constitution.

Dr. B. R. Ambedkar: You want to accuse me for your blemishes ?

Mr. Chairman : He has said that he defended the present constitution because it was the majority decision. Get along.

Dr. B. R. Ambedkar : Sir, therefore, my submission is this that no harm can be done *to* democracy and to democratic Constitution if our Constitution was amended and powers similar to those given to the Governor General under section 93 were given to the Governor. At any rate, that would be some kind of a safeguard to certain small linguistic areas or linguistic groups who find that the majority in the State are not doing justice to them.

The second suggestion that I would like to make is from the English Constitution. My hon. Friend must be aware of the position of Scotland in the British Constitution and therefore I would not go into greater details. But he will remember two things. One is this that although Scotland and England are one—nobody can say that they are two separate countries—still there is a special Secretary of State for Scotland under the British Constitution to look after the interests of the Scottish people. He must have gone to London, I think, various times. (*The Hon. Minister indicated by signs*— three) Three times. Surely, he must have passed by the Parliament Street and just by the side of 10, Downing Street, there is a big brass board 'Scottish Office' which is the place where the Secretary of State for Scotland sits. That is the one provision which the British have made. They have not argued, as my friends have argued, that this is a recognition of communalism. Have they ? Scotland came and joined England some hundreds of years ago and yet the British people, in order to recognise the sentiments of the Scots, in order to respect their feelings, have created statutorily an office called the Secretary of State for Scotland.

The second thing to which I would like to refer is this that in the British Parliament there are two Committees. One is a Committee for Wales and Monmouthshire and there is another Committee for Scotland consisting of Scottish members. All Bills referring to Scotland have to be sent to the Scottish Committee so that the Scottish members may have their full say in the matter. In the same way the members of Wales and Monmouthshire are also brought on committees connected with their affairs. It is by placating the sentiments of smaller communities and smaller people who are afraid that the majority may do wrong, that the British Parliament works. Sir, my friends tell me that I have made the Constitution. But I am quite prepared to say that I shall be the first person to burn it out. I do not want it. It does not suit anybody. But, whatever that may be, if our people want to carry on, they must not forget that there are majorities and there are minorities, and they simply cannot ignore the minorities by saying, "Oh, no. To recognise you is to harm democracy."

I should say that the greatest harm will come by injuring the minorities. I fear sometimes that if the minorities are treated in the way in which they are being treated in our Bombay State—I do not want to be parochial, but my friends have been telling me, as I am not there and I do not take any interest in my State, as you know, and I do not even like to call myself a Maharashtrian—I do not know what will ultimately happen. I am fond of Hindi, but the only trouble is that the Hindi-speaking people are the greatest enemies of Hindi.

Mr. Chairman: Dr. Ambedkar, it is an aside.

Dr. B. R. Ambedkar: It is an aside.

Now, Sir, I am told that the Ministers are drawn from the two provinces. The clever members of the Ministry draw all the funds for developing the resources in that particular area, and the other area gets nothing. The same is being said about the Rayalaseema area, that the coastal people are generally able to get larger funds for their area and the Rayalaseema people get nothing. If my friend could make a provision in the Constitution that there shall be constituted lawfully under this very Bill a committee consisting of the members belonging to Rayalaseema, who will have the right to represent to the Governor and to the members of the Ministry that their part is to be included, I think a large part of the grievance would disappear. Similarly, Sir, I find that our Bengali Members are considerably agitated over the fact that part of Bihar—they say—is Bengal. I do not know; it may be, because originally Bengal spread over everywhere. The Governor General had a very large area, and wherever the Governor General went, the Bengalis also went with him.

Mr. Chairman: Go on with the Andhra Bill.

Dr. B. R. Ambedkar: Yes. I am only giving an illustration. My illustration is this, that supposing such was the case that the Biharis were not treating the Bengalis well. Well, the only way open for solving this problem would be that there should be a committee of the Legislature consisting of the members who are Bengalis and who would have the right to represent

their grievances to the Ministry as well as to the Governor or to the President. When all these things fail, then I suppose we shall have to go to the naked proposition that we shall be linguists first and linguists last, and that we shall not recognise India. If that is to be our ultimate aim, well, God save us. But, Sir, my submission to my hon. Friend is this that he should examine carefully some of the points I have made, particularly in the last part of my speech, and see whether he can find any solution to the problem of linguistic provinces, based on the suggestions that I have made, in the new measure that he may have to bring—he may not be very willing to bring a new measure, but he may have to bring it.

(47)

ESTATE DUTY BILL, 1953

***Dr. B. R. Ambedkar** (Bombay)**:** Mr. Chairman, I would just like to make a few observations on the measure that is placed by the Finance Minister before this House. I am supporting the measure; at the same time I think that there are certain points which require to be elucidated. I should have thought that the very first thing in the collection of an estate duty is to know what the amount of the estate is which a deceased person has left. So far as this measure is concerned, I have not as yet been able to find out how the authorities which have been created under this Act are going to find out what estate a deceased person has left. Referring to section 4 of the Bill, it merely lays down three authorities : the Board, the Controllers of Estate Duty, and the Valuers. Speaking for myself, I should think that it would be a matter of the greatest difficulty for the authorities who are created to administer this measure to know what a person has left.

In the first place, it would be very difficult for them to know who is dead and when he is dead. In this country, it has been a long, long complaint that we have not yet a measure which would compulsorily require a person to report that a child is born to him either male or female or that a certain person in his family is dead, to the Municipal authorities or to the village authorities. He may, if he liked. In the villages, it is the village officer of lowest grade on whom the duty is placed of going and reporting to the village patel that a child is born to a certain person in the village. He may do so, or he may not do so, he may do so after a long time. In the municipality—I am speaking of the Bombay Municipality which is, I think, one of the biggest municipalities—every one knows that there is hardly any compulsion on anybody to go and report to the

* P. D., Vol. 4B. (Council of States), 18th September 53, pp. 2805-15.

municipality that somebody is dead though an official permission is necessary for the purpose of either burying him or burning him. My own experience has been that we often carried the dead body to the graveyard, and there was some sort of insignificant clerk to whom we paid four annas and who gave us a counterfoil of a ticket saying: "All right, you have brought the dead body and you can either bury or burn it as may be the custom prevalent amongst you". I do not know the party to whom this particular certificate—what may be called the death certificate—may be of any use, except to take it to the mill manager and say: "So-and-so is dead: I am his relative, and I want the balance of wages that are lying in your hand". I have no idea whether the clerk who stays in the burial ground reports the matter to the municipality or not that so-and-so was dead, and his dead body was brought there, and was either cremated or buried. That is the condition of the register of births and deaths in this country.

I submit, Sir, that it would be very difficult for the authorities who are created under this Act to go about hunting every nook and corner to find out who is dead. In England, the operation of the estate duty law becomes simple for the simple reason that there everybody dies after making a will and so far as that is concerned, some one has to take what is called a 'probate' so that all the Inland Revenue Officers—as they are called in England—who operate the internal tax system have only to go to the Registrar of the High Court in order to find out whether any application has been made for a probate. If so, from that they can find out who is dead, what is the total estate that has been disclosed in that application. But, unfortunately, in our country, we have not got the habit of obtaining a probate. No doubt, there is a rule that, so far as the Indian Succession Act goes, a probate shall be taken, if there is a will, under the Probate Act. If a party is not governed by the Indian Succession Act, all the same, a party can obtain a probate on a will, if any will is left, under what is called the Probate Administration Act. We have got no such system at all here. I have been wondering at myself, if my hon. Friend appointed me as Controller of the Estate Duty under this Bill, what I would do, where would I go to

find out deaths ? It would be with very considerable difficulty. That, I find, is one lacuna in this Bill.

The second thing that I found in this Bill is this. The hon. member has provided in clause 17 of the Bill as to who should pay the estate duty. If the interest of the deceased is in a controlled company, then somebody representing the controlled company shall pay; if it is others, then, some other persons may pay. All the same, the question remains : how is a Controller to know that the deceased person had a share in the controlled company or that the deceased person had other property ? I should think that this Bill should have a clause like the one that I am suggesting, requiring every successor, whether the deceased left a will or not, to go to the Court and to make a declaration of the property left if there is no will, so that the Controller would know from the declaration that so much property has been left. He can then proceed to find out whether there had been any concealment of the property that the deceased had left. Otherwise it would be a sort of a roving enquiry that the Controller will have to make in order to find out what is the exact amount of property. In the present circumstances in which we exist and in which we find so much corruption, I am very greatly doubtful whether a law of this kind leaving the matter entirely in the hands of the Controller would not result in much more corruption than what exists today. These are the two things which, I find, require to be rectified so that the law which is bound to cause harshness—and every law causes harshness—does not cause unnecessary harassment to the people who are to pay this duty.

The second question to which I wish to draw the attention of the house is the question of the amount that is likely to be realised by this estate duty. I have been following the speeches of the hon. Member, which he has made on various occasions with regard to the Estate Duty Bill and I find that he has been very cautious not to commit himself to any particular figure. I think last time when he introduced the Bill in 1952 he said to the House that he was quite unable to even make a guess of what was likely to be the yield of this tax. Well, I think that with regard to a measure of this

sort which spreads so widely, the Hon. the Finance Minister ought to have at least made a guess with the figures that are available, or at least asked the Board of Revenue to make some investigation and to give him an idea as to whether the yield of this tax would be commensurate with the troubles that he was taking. I have been looking into the report of the Board of Revenue and I find that there are certain figures which the Finance Department could have used for the purpose of telling us, now that the rates of duty are fixed and attached to the Bill, as to what is likely to be the yield. The Board of Revenue does give figures about income tax. It also gives figures as to the total number of joint families that exist in India; it not only gives the total amout of the income tax that was collected from joint families but also the figures of the total number of joint families which were assessed and the total amount of income which was shown by them in their returns. Sir, I think this tax is going to affect to a very large extent the joint families in this country and with the information which is shown in the report of the Board of Revenue for the year 1950-51, it would have been possible for us to know what exactly the Hon. Minister expects from this source as revenue. We would have been then in a much better position to say with all alacrity that no matter what the trouble is, the tax may be levied. But if in the end we find that the amount realised is not commensurate with the measure, the Hon. the Finance Minister himself may regret the trouble that he has taken in bringing forward this Bill.

Shri B. C. Ghose (West Bengal)**:** Then he will raise the duty.

Dr. B. R. Ambedkar: Another thing to which I would like to make a reference is this. There is a feeling that there is a great deal of difference between the estate duty as such and income tax as such, and while there might be some feeling against the income tax there cannot be such a feeling against the estate duty, the difference being that the income tax is a tax on the income and the estate duty is a tax on capital. Superficially, this distinction no doubt is correct because when we levy the estate duty we do not take out of the income,

but we take out of the capital that the man has left. In the case of income tax we take something from the current income that he earns. Sir, I should like to say that this is a very superficial distinction, for ultimately there is no distinction between the income tax and the estate duty because the estate duty is merely nothing more than accumulated income which is taxed at one source, at one defined period, namely, when the man is dead. Now, it seems to me a matter of considerable importance as to whether the tax that you levy at the death of the man is likely to produce effects which would dry up the source of revenue, or whether it is so good, and the country is so resilient, that nothwithstanding the estate duty the country produces more and therefore it does not matter whether you levy the estate duty and it does not matter at what pitch you levy it. My hon. friend must be knowing the facts much more than I do, but I would like to tell the House some of the figures in Great Britain. I have taken them from the report of the Board of Revenue for 1951-52. They give relevant figures. In 1942-43 the total amount of income tax collected in Great Britain was 18 million pounds and in 1951-52 it was 20 million pounds. So far as the death duties are concerned, in 1942-43 the total collection was £93,340,343 and in 1951-52 the total collection was £182,600,643. I would like the house to consider similar figures so far as this country is concerned. Sir, my Hon. friend, the Finance Minister must be aware of the recent report that was made by one of the U.N.E.S.C.O. Committees. There are so many committees in the U.N.E.S.C.O. There was a Committee which investigated into the question of finding out why the South Asiatic Countries were so backward in the matter of their industrial and economic advancement. And the reason that they gave was that the saving in the country was so small that there was no capital formation at all. And in the absence of capital formation, there was the absence of industry and other things. Of course, if we were a Communist Country—and I have no doubt that we shall very soon become one—and our economic life or industrial life or agricultural life was taken charge of by the Government, for better or for worse, it would matter very little how much we save and how much we do not save.

If we save a little, probably the Government would make us save more. And there would be no difficulty on that account at all. But so long as we have not got a Communist Regime which takes complete responsibility for the welfare of the people and their education .....

Shri B, B. Sharma (Uttar Pradesh)**:** And for their "ill-fare" .....

Dr. B. R. Ambedkar: I do not know; there is always something wrong here and there; no system is perfect.

Mr. Chairman: Go on, go on.

Dr. B. R. Ambedkar: I am sorry, he broke my chain of argument. So, what I was saying was this, that so long as we haven't got a system of that sort which takes complete responsibility for the welfare of the people, and so long as we have got a system which makes people responsible for their welfare, well, that State, I suppose, only aids the people in their welfare, but it does not do welfare. It is very accessory that our taxing system should be such that it should leave sufficient for the purpose of creating capital. Every time the Government takes something from us and we are never allowed to carry on. Sir, this Bill which has been brought forward by my hon. friend, as I know it from experience, is not a new measure at all. I remember that the first time that such a Bill was adumbrated was in the year 1944-45. Sir Jeremy Raisman, who was then the Finance Member, said in the course of his Budget speech that he would introduce a Bill like the Estate Duty Bill as soon as Parliament had rectified omission which was contained in Schedule I. The Act of 1935 did not contain any such entry at all as an Estate Duty either to be levied by the Provinces or to be levied by the Centre. Then, in 1946. Sir Archibald Rowlands who succeeded Sir Jeremy Raisman brought forward a Bill. The curious thing about that Bill of 1946 was that it was opposed both by the Congress as well as by the Muslim League. The Congress members said, "You have no right to levy any tax like the estate duty". And the Muslim Leaguers said, "If you levy such a tax, you would be affecting our *Waqf,* which is a trust, and which is partly for God and partly for man." And

so, the Government, with no support from either the Congress or the Muslim League, could hardly do anything about the measure and the measure was dropped. Then again it was taken up in 1948 by Mr. Shanmukham Chetty, who introduced another Bill. The Bill was referred to a Select Committee and the Select Committee took the view that so long as the law of Mitakshara prevailed in this country—and it prevailed in a very large part of the territory of this country—it would be no use having an Estate Duty Bill. The result was that it was taken back—or rather put on the shelf. Mr. Shanmukham Chetty was succeded by Dr. John Matthai and Dr. John Matthai pressed for funds, recalled the session of the Select Committee and put the Bill again before them, and got a verdict from the Select Committee that notwithstanding the fact that the Hindu Code was hanging fire for four years—and nobody knows how long it is going to hang fire, probably permanently and perpetually—and no one is sorry for that except myself .....

Dr. Shrimati Seeta Parmanand (Madhya Pradesh)**:** The hon. Member is not the only Member who is sorry, but there are other Members also.

Dr. B. R. Ambedkar: I know that women Members are very helpful. I must say that last time when I was on tenter hooks. I called some of the ladies—I mean, the more bulky ones—and I suggested to them that if any one of them went on threatening a fast unto death, probably we might get the Hindu Code through. Sir, I tell you .....

Khwaja Inait Ullah (Bihar) **:** You are again giving a hint.

Mr. Chairman: You were encouraging *satyagraha,* Dr. Ambedkar !

Dr. B. R. Ambedkar: Yes, sometimes it is useful. If it could not bring this Bill through, it would have certainly reduced the weight of the ladies and would have improved their health also considerably. That was the position. Dr. Matthai had a verdict in 1949. There was a second report of the Select Committee and it said, "Never mind about the Hindu Code. Let us proceed with the Estate Duty Bill", but for three years noting happened. One does not know why. The

Bill was lying in the file of the Finance Department till in 1952 my hon. Friend, probably in doing the work of the office duster, found a copy somewhere. And what did he do ? It is an interesting thing. The Select Committee said that they could by some suitable amendment get over the difficulty of the Law of Mitakshara. My hon. Friend has made some effort to get over that difficulty and he has got over that difficulty by practically destroying the Mitakshara law. Clause 7 says that if a person below 18 dies, then there will be no estate duty but if a coparcener dies in a condition in which we describe him under the Hindu Law as the sole surviving coparcener, then estate duty may be levied. Well, Sir, if my hon. Friend can in this roundabout method defeat the Mitakshara Law, could he not have the courage to say, by bringing in another Bill or by inducing his colleague the Law Minister to bring in another Bill, that the Mitakshara Law is abolished ? So, Sir, these are some of the points which I wanted to make. Mitakshara Law is notionally destroyed, because under the Mitakshara Law there is no such thing as the passing of the property, because the property is already his by birth. There is no question of the passing of property. It is a wrong notion. I do not know who has told him about it. Under the Mitakshara Law property does not pass. As soon as a child is born, the property becomes his and the father's share is reduced. What passes therefore on the death of the father ? Nothing. As soon as a son is born, the father's share is affected. Supposing he has a second son, as he is likely to have, and the first child happens to be so unlucky as to have a brother, then the share is still further reduced.

Sir, I am told that there are some 44 countries in the world which have passed such a law, viz. Estate Duty Law. I have not got the list with me, but I am sure very few of the Southern Asiatic Countries have passed any such law. There is hardly anything remaining with them. As the report of the Committee shows, they have nothing to pass on. Our great problem is. "How shall we accumulate ?" We hate capitalists and I do too. I Have all my life lived in Parel in a *chawl* of the Improvement Trust, Room No. 50. If people go there, they ' might visit it. I paid originally Rs. 3-8-0 as rent for my room

and I have still kept it as an emergency measure in case I am asked to go back again there. So I am no great friend of the capitalists, but I think that in this country we ought to make a distinction between capital and capital. If you want the capital from them, take it from them. Adopt the Russian system and go on. My only point is that you must have some discrimination. In their enthusiasm—which is a very good thing—I am afraid they are running amuck, because some other countries have done something. Well, India is certainly not Europe. I have gone to Europe several times, and I could very easily see the difference between India and Europe, very easily. What is good for Europe certainly could not be good for India. We have certainly to reach the standard that the European people have reached *viz.* standard of comfort, standard of living equality of treatment, education, etc. All these things we need. For that purpose, we need money. Take the case of the English people. Take their educational progress. There compulsory elementary education came in 1860, while the Oxford University was established some time in the eleventh century or the twelfth century. So, we have to be very careful in doing what we are doing. Our enthusiasm no doubt is well merited. It is good that we should bring about the betterment of the people, but we should be careful about the means that we adopt. That is all that I want to say.

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INTERNATIONAL SITUATION

***Dr. B. R. Ambedkar** (Bombay) **:** Mr. Chairman in this debate on foreign policy what one can do, at the most, is to discuss the principles on which the foreign policy of the Government is based. There is hardly time for doing anything more. Principles are undoubtedly very valuable, but I take it politicians have a great dislike for principles, particularly politicians who are dealing with foreign policy. They like to deal with things *ad hoc,* each transaction by itself, without any underlying principle.

I remember, that when after the first World War, Mr. Lloyd George and Mr. Clemenceau met in a hotel in Paris before the Versailles Treaty in order to settle, among themselves, where to draw the line of partition between certain territories belonging to Germany in order to hand them over to France for satisfying the strategic fears of France, they had a long map spread in a room which covered the whole of the room and Lloyd George and Mr. Clemenceau had fallen on their tummy to examine exactly; where the line should be drawn. After a long search they drew the line which was of course, most suitable to France. Afterwards Mr. Lloyd George called Mr. Nicholson, who had accompanied him as the expert from his Foreign Office and asked him to express his opinion about the line which they had drawn. Mr. Nicholson explained in horror saying, "Oh! this is too bad, too bad. Morally quite indefensible". Both these statesmen immediately turned on their back and raised their legs in the air and said, "Well, Mr. Nicholson, can't you give us a better reason ?"

I remember also about 1924 or so. Mr. Low, the great cartoonist, having drawn a cartoon in the *Evening Standard* in London showing the various Foreign Ministers of

* P. D., Vol. 7A (Council of States), 26th August 1954, pp. 469-83.

the different countries of Europe then searching for the settlement of European problems with their top hats, tail coats and striped trousers holding each other's hands, dancing round and saying, "Oh ! give us peace without principles, give us peace without principles". Of course, the world laughed at that.

I am glad that that cannot be said of our Prime Minister, He has certain principles on which he is proceeding. It is for the house to decide whether the principles on which he is proceeding are principles which can furnish us a safe guide and whether they are valid principles on which the destiny of this country could be staked. That is the only question that we can discuss and it is to these principles that I am going to confine myself.

The principles on which the Prime Minister is proceeding—and he has said so himself—are mainly three. One is peace : the second is co-existence between communism and free democracy; and the third is opposition to SEATO. These are the three main props on which his Foreign policy is based. Now, Sir, in order that one may be able to assess the validity and the adequacy of these principles, I think, it is necessary to have some knowledge of the background of the present day problems with which we are concerned and for which these principles are enunciated.

Now, the background, to my mind is nothing else but the expansion of communism in the world. It is quite impossible to follow the principle or to understand the validity and the nature of the principle unless one bears in mind the problem that the world has to face today—that part of the world which believes in parliamentary and free democracy, *viz.,* the expansion of communism in the world. I propose to give some figures to the House which I have collected in this matter. I am not going back into the long past but I am going to start from May 1945 when the War came to an end. By May 1945, Russia had consumed ten European States.

Shri B. Gupta: It is an utter falsehood.

Mr. Chairman : Mr. Gupta, you will have your chance to reply.

Shri B. Gupta: He cannot say such things. An older man like him can not say such things.

Mr. Chairman: Mr. Sundarayya, tell him that he will have an opportunity of answering and he need not get excited.

Dr. B. R. Ambedkar: You will have time to answer. Don't be impatient. The person who is often uneasy is the Prime Minister but he is not today. He is quite calm. Why are you so excited ?

If you want to have a look at the authority, I will give it to you—I have got it here—provided I am assured that you will return it to me.

Shri B. Gupta: You have your document from McCarthy and Dulles.

Dr. B, R. Ambedkar: Now, Sir, I was saying that if we take stock of the situation from May 1945, and find out what has happened, this is the situation. Russia has consumed, as I said, ten European States: one is Finland; two, Estonia; three, Latvia; four, Lithuania; five, Poland; six, Czechoslovakia, seven; Hungary; eight, Rumania; nine, Bulgaria; and ten, Albania.

Shri B. Gupta: ..... and eleven is Dr. Ambedkar!

Dr. B. R. Ambedkar: I am glad you add to my list. You are more upto-date than the book.

In addition, Russia has taken possession of parts of Germany, Austria, Norway and the Danish Island of Bornholm. Of these ten European States, three have been straightway annexed by Russia and made part of her country. The rest seven are kept under Russian influence. This European conquest of Russia amounts to an absorption of a total of 85,000 square miles and 23 millions of people subjugated.

In the Far East, Russia has annexed the Chinese territory of China (Tannu Tuva). Manchuria, and Korea, north of the 38th parallel, and Southern Sakhalin. This territory in the Far East represents against a total area of 20,000 square miles and 500,000 inhabitants.

Shri P. Sundarayya: What about the People's Republic of China ? Why did you omit it ?

Shri Govinda Reddy: He said that.

Shri B, Gupta: A great demonstration of history is going on; a great historian has devolved!

Dr. B. R. Ambedkar: They have increased the number by further aggression in South Korea and Indo-China.

Well, Sir, this is the background, I say against which the adequacy of the principles on which the foreign policy of this Government is based must be considered. I will take first the principle of peace. We want peace; nobody wants war. The only question is, what the price of this peace is going to be. At what price are we purchasing this peace ? Now, it is quite obvious that peace is being purchased by what might be called partitioning and dis-membering of countries. I can quite understand the dismemberment of Austria-Hungary where different nationalities with different languages, different cultures, different races, were kept together under one sovereign autocracy of the Austrian Empire. The first World War brought about the end of the Austrian Empire on the well-known principle of self-determination. But here what you are doing is this. There are countries which are culturally one, which are socially homogeneous, which have one language, one race, one destiny, desiring to live together. You go there, cut them up and divide the carcase, and hand over a part of the carcase to what ? To countries who are interested in spreading communism. From the figures which I have given there can be no doubt about it that communist countries today are as big as a giant—nobody has seen a giant—I have not seen anyhow .....

Shri B. Gupta: Except yourself.

Dr. B. R. Ambedkar : ..... and he is supposed to be one of the biggest individuals or persons that can be imagined. Here you have a vast country endlessly occupied in destroying other people, absorbing them within its fold on the theory that it is liberating them. The Russian liberation, so far as I can understand, is liberation followed by servitude; it is not

liberation followed by freedom. But the point is this—and it worries me considerably. You are, by this kind of a peace, doing nothing more but feeding the giant every time the giant opens his jaw and wants something to eat. When you are feeding the giant regularly and constantly, the question that I should ask myself is this. Is it not conceivable that this giant may one day turn to us and say: "I have now consumed everything that there was to be consumed : you are the only person that remains, and I want to consume you".

Shri H. P. Saksena: Then we will consume the giant.

Dr. B. R, Ambedkar: Let us not boost ourselves too much. We have not been tried as yet in an international bout and when we are tried in an international bout I think it will be found out whether we can face the situation ourselves. But the point that I was making is this. This principle of feeding the giant seems to me a most obnoxious principle and how, for instance as I said can we expect to be relieved ? Will the Russians show any gratitude because the Indian Prime Minister and the Indian Parliament have supported the partition of Indo-China or supported the partition of Korea, and will they not turn to us ? I think this is a question which the Indians should bear in mind and not forget or overlook.

Now the other question, namely, co-existence. This coexistence to my mind is an astounding principle unless it is very strictly limited. The question is : Can communism and free democracy work together ? Can they live together ? Is it possible to hope that there will not be a conflict between them ? The theory, at any rate, seems to me utterly absurd, for communism is like a forest fire; it goes on burning and consuming anything and everything that comes in its way. It is quite possible that countries which are far distant from the centre of communism may feel safe that the forest fire may be extinguished before it reaches them or it may be that the fire may never reach them. But what about the countries which are living in the vicinity of this forest fire ? Can you expect that human habitation and this forest fire can long live together ? I have seen comments from Canadian statesmen and from European statesmen congratulating the policy of

co-existence. Their praises and their encomiums do not move me in the least. I attach no value to their view and to their opinion. The statesmen of Canada can very easily say that co-existence is possible because Canada is separated from China and Russia by thousands and thousands of miles. Similarly, England after having pulled itself out from the great conflagration, now thinks that she is too exhausted to do anything and therefore likes to enunciate and support the principle of co-existence. But there again it is a matter of distance. One must not forget that in the foreign policy of a country the geographical factor is one of the most important factors. Each country's foreign policy must vary with its geographical location in relation to the factor with which it is dealing. What is good for Canada may not be good for us. What is good for England may not be good for us. Therefore, this co-existence seems to me a principle which has been adopted without much thought on the part of the Prime Minister.

Then, Sir, I will say a few words with regard to the SEATO. I was very carefully listening to the Prime Minister's observations with regard to the SEATO, and I was glad to find that he had not made up his mind about the SEATO. If I heard him correctly, he said that in view of the fact that this country has accepted the chairmanship of some commission in accordance with the Geneva decisions it may not be compatible for him and for this country to join the SEATO at the same time. The two things would undoubtedly be incompatible. But apart from that I think the merits of the SEATO must be considered.

The repugnance to SEATO appears to me to arise from two sources. I think I am not letting out any secret nor am I accusing the Prime Minister of anything of which he does not know, that the Prime Minister had a certain amount of hostility, or if he does not like that word, estrangement between himself and the United States. Somehow he and the U.S.A. do not see eye to eye together. That is one reason why I think he always had a certain amount of repugnance to anything that comes from the United States.

Shri B. Gupta: Are you speaking for match-making ?

Mr. Chairman: The Prime Minister is quiet and you are talking.

Dr. B. R. Ambedkar : And secondly from the fear of what Russia will think if India joins the SEATO. Here again, I think, it is necessary to give the House some background against which the merits of the SEATO may be assessed. Now, Sir, what is the background of all this ? The background is this.

I have given a list of countries which have gone under the Russian regime. I think it is well known that this happened largely because, if I may say so, of the foolishness of the Americans during the last Great War. The Russians got possession of these territories with the consent of Mr. Roosevelt and with the reluctant willingness of Mr. Churchill. Mr. Churchill expressed, when the war ended that they had done a great mistake, and a great wrong, in sacrificing the liberty of so many nations for the sake of winning victory against Hitler. And the same feeling, I think, is expressed by him in his last volume which he called "Triumph and Tragedy". It is because of this that he named his last volume "Triumph and Tragedy". Now, Sir, what the Americans are doing. If I understand, their policy correctly, is this. Their point of view is that Russia should be satisfied with what she has got during the war, the ten countries. As a matter of fact. I should have thought that it should have been the duty of the Americans and the Britishers to extricate these countries, to liberate them, to make them free. But neither country has the will, nor the moral stamina, nor the desire to engage itself in such a stupendous task. They are therefore following, what may be called a second line of defence, and that second line of defence is that Russia should not be allowed, or China should not be allowed to occupy any further part of the free world. I think that is the principle to which all freedom-loving people would agree. There could be no objection to it. And it is to prevent Russia from making further aggression that they are planning the SEATO. The SEATO is not an organisation for committing

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aggression on any country. The SEATO is an organisation for the purpose of preventing agression on free countries. I wonder whether the Prime Minister will not be prepared to accept this principle, that at any rate, such part of the free world as has, by accident, remained free should be allowed to remain free and not to be subjugated . Is India not exposed to aggression ? I should have thought that it is very much exposed to aggression. I have no time. Otherwise, I was going to point the House how this country has been completely encircled on one side by Pakistan and the other Muslim countries. I do not know what is going to happen, but now that the barrier between Egypt and England has been removed by the handing over of the Suez Canal, I think, there may be very little difficulty in the Muslim countries joining with Pakistan and forming a block on that side. On this side by allowing the Chinese to take possession of Lhasa, the Prime Minister has practically helped the Chinese to bring their border down to the Indian border. Looking at all these things, it seems to me that it would be an act of levity not to believe that India, if it is not exposed to aggression right now, is exposed to aggression and that—aggression might well be committed by people who always are in the habit of committing aggression.

Now, I come to the other question. What will Russia say if we join SEATO ? And the question that I like to ask is this. What is the key-note of Russian foreign policy ? What is it ? The key note of our foreign policy is to solve the problems of the other countries, and not to solve the problems of our own. We have here the problem of Kashmir. We have never succeeded in solving it. Everybody seems to have forgotten that it is a problem. But I suppose, some day, we may wake up and find that the ghost is there. And I find that the Prime Minister has launched upon the project of digging a tunnel connecting Kashmir to India. Sir, I think, it is one of the most dangerous things that a Prime Minister could do. We have been hearing of a tunnel under the English Channel to connect France with England. We have been hearing it for 50 years, I think someone has been proposing, and yet the English have never done anything to carry out the project, because it is

a double-edged weapon. The enemy, if he conquers France, can use the tunnel and rush troops into England and conquer England. That might also happen. The Prime Minister, in digging the tunnel, thinks that he alone would be able to use it. He does not realise that it can always be a two-way traffic, and that a conqueror who comes on the other side and captures Kashmir, can come away straight to Pathankot, and probably come into the Prime Minister's house—I do not know.

Mr. Chairman: Getting time.

Dr. B. R. Ambedkar: Now, one or two small observations

Mr. Chairman : One or two small observations to wind up.

Dr. B. R. Ambedkar: Yes. The Prime Minister has been depending upon what may be called the *Panchsheel* taken by Mr. Mao and recorded in the Tibet Treaty of non-aggression. Well, I am somewhat surprised that the Prime Minister should take this *Panchsheel* seriously. The *Panchsheel,* as you, Sir, know it well, is the essential part of the Buddhist religion, and if Mr. Mao had any faith in the *Panchsheel,* he certainly would treat the Buddhists in his own country in a very different way. There is no room for *Panchsheel* in politics and secondly, not in the politics of a communist country. The communist countries have two well-known principles on which they always act. One is that morality is always in a flux. There is no morality. Today's morality is not tomorrow's morality.

You can keep your word in accordance with the morality of today and you can break your word with equal justification tommorrow because tomorrow's morality will be different. The second thing is that when the Russian Communist State is dealing with the other States, each transaction is a unit by itself. When we deal with somebody, we begin with goodwill and end with gratitude. When the Russians deal with somebody, they do not begin with goodwill, nor do they end with any gratitude. Each transaction begins and ends by itself, and this is what I am sure the Prime Minister will find at the end when the situation ripens. The Prime Minister has always been saying that there is such a thing as the principle,

"Asia for Asiatics". Yes, in so far as colonialism is concerned, that principle is perfectly true. Asia must be for Asiatics, but we are dealing with a situation like this ? Is Asia one today ? In what sense ? Asia is divided now, it is a divided house now. More than half of Asia is communist. It has adopted a different principle of life and a different principle of Government. The rest of Asia follows a different life and a different principle of Government. What unity can there be among Asiatics ? What is the use of talking about Asia for Asiatics ? There can be no such thing at all. Asia is already becoming the cockpit of war and strife among Asians themselves. Therefore, it is better to align ourselves with what we call free nations if we believe in freedom.

One word about Goa. There can be no doubt that the Prime Minister in pursuing the policy of getting Goa evacuated is quite right. It is a very sound policy and everybody must lend his support to him. I do. But there is one observation that I would like to make. This question about the evacuation of Goa by the Portuguese and handing it over to India was, if I remember aright, brought to his notice very early when we got our independence. I possess with me some notes which were submitted to him by a delegation—I have forgotten their names, but I have got them with me—but the Prime Minister took no active interest in it. I am very sorry to say that, because I feel that if the Prime Minister had in the very beginning taken an active interest in the matter. I am sure about it that a small police action on the part of the Government of India would have been quite sufficient to enable us to get possession of Goa, but he has always been only shouting against them, only shouting and doing nothing. The result has been that the Portuguese have been able, so far as we know, to garrison Goa. Of course, the Prime Minister's information must be correct and must be accepted by us that Goa is still defenseless, that there is no garrison there, no army there, brought by the Portuguese.

Shri Jawaharlal Nehru: I said no such thing.

Dr. B. R. Ambedkar: I thought he said so, but whatever it is, the point now is this : Personally I myself think that

this discussion over observers has no value and no consequence. Supposing the Portuguese give the best treatment to the Goanese, are we going to give up our claim over Goa ? May be that they give dominion status to them, so far as we know, and make them full-fledged citizens, but we are not going to give up our claim to Goa. No doubt about it. It is part of India. Therefore all this talk about observers seems to me to be beside the point. We must deal with the Portuguese people over this question. Are they prepared to surrender their sovereignty in the same way as the British did ? This is the only issue that I think need be discussed. Sir, it seems very unfortunate that some of the enlightened nations are siding with the Portuguese. I am sorry to see Mr. Churchill in a clandestine manner siding with the Portuguese saying to us. 'Do not use force', Why ? Are they going to go away with a kiss from the Prime Minister ? And without a shot being fired ? Similarly Brazil, and I do not know what the attitude of the U.S.A. is, which has not been publicly proclaimed. Possibly, they may also have a soft corner for Portugal. I have been wondering why all these things have happened, why England, which voluntarily surrendered sovereignty, to the people of this country, should ask another country similarly situated to act in a contrary way. It is impossible to understand it. It seems to me—the Prime minister may accept my suggestion or may not accept it but it seems to me that they are trying to teach our Prime Minister that neutrality has price.

Shri P. Sundarayya : The Prime Minister must take note of it.

Dr. B. R. Ambedkar: I am going to make one suggestion to the Prime Minister. I do not think that we should have an armed conflict with the Portuguese if the Portuguese are going to be supported by other United Nations members, but less than that, there are two proposals that I wanted to make. You remember perhaps that there was the case in America which concerned the State of Louisiana, which was a French possession in the midst of American possessions and the Americans were very anxious to get rid of the French and to have Louisiana transferred to the United States. The

measure that they adopted was to get it for a price. The price given was—I have got the figures with me.

Shri P. Sundarayya: A few pieces or silver.

Dr. B. R. Ambedkar: A very small price indeed for a huge territory. Goa is really nothing compared with it. Goa is just one of the towns of Louisiana. If the Prime Minister wishes to adopt it .....

Shri Jawaharlal Nehru: What is it ?

Mr. Chairman: Purchase it from Portugal .....

Dr. B. R. Ambedkar: Initiate discussion on that. I am suggesting alternative methods.

Mr. Chairman: That is one suggestion. What is the other ?

Dr. B. R. Ambedkar: The other suggestion that I would like to put before the Prime Minister is that we can take Goa on lease. We all remember in our own country of the lease of Berar. Berar was the property of the Nizam. He had sovereignty over it, but the British Government in the year 1853 or so got Berar on a permanent lease. I do not know what amount of money they gave the Nizam. It might have been very small.

Shri B. Gupta: If we do that, we will have to mortgage India's honour.

Dr. B. R. Ambedkar: I am sorry I Can't follow him. It is very difficult for me to follow him.

Mr. Chairman: It is difficult to follow him.

Dr. B. R. Ambedkar: What I say is this. We are hot interested very much as to who is the nominal sovereign in this matter. What we are interested in getting possession of Goa, and in establishing our own administration there. We have here a case where in our own country a territory belonging to another sovereign was leased over, made permanently part of India with certain embellishments to indicate that there was a sovereign. I think his son was made Prince of Berar. That is another method which the Prime

Minister may try. I don't see any reason why he should not succeed with the Portuguese in persuading them to adopt either of the two methods.

There is only one more observation I will make and I will sit down. I was reading the other day a volume published by the Institute of International Affairs at Chatham House, giving a survey of things that led to the Second World War, and the author, undoubtedly one of the best and most erudite, drew two conclusions as to why the war came and why it was not avoided. One was that Mr. Chamberlain, on account of the policy of disarmament which was then being agitated upon by the Labour Party could not preserve what is called the balance of power in Europe and allowed Hitler to grow and grow until, it was difficult to control him. The second thing, he said, was that Chamberlain made the greatest mistake in believing in the word of Hitler. There was no greater liar than Hitler. He was given all that he wanted when the Sudetan Germans were separated from Czechoslovakia and he said he had nothing more to ask. The whole House will remember that after that treaty was signed, the very next day he marched into Czechoslovakia. I hope our Prime Minister will not make these blunders. Sir, I have done.

(49)

GOVERNMENT ORDER ON BANK DISPUTES

***Dr. B. R. Ambedkar** (Bombay) **:** Mr. Chairman, I see from the speech of the Hon. the Prime Minister that it was more anxious to dispel certain charges which people are likely to make against the Government on the ground that they have shown a bias in favour of capitalists and against labour. I certainly am not one of those who are seeking to make such a charge against the Government. I may make out a case towards the end of my speech that the Government has altogether misjudged the position expressed in my judgement, has not even understood the facts which were before them.

12-00 NOON

The Prime Minister's case—if I understood him correctly—resembled the case of a woman who had given birth to an illegitimate child and when she was questioned on this issue, she said : "Sir, it may be illegitimate, but it is a very small baby." Well, I suppose we could separate the two issues, the fact that the decision is illegitimate and the fact that the decision probably is a small one. We are concerned only whether the decision is a just one or not.

As the time is very short, it is not possible to indulge in any preliminary obersvations before entering into the subject matter. I, therefore, propose to begin with the subject matter itself.

A certain issue raised by the Leader of the Opposition is this : Are the modifications made by the Government in the Labour Appellate Tribunal's Award justified ? The Prime Minister legitimately said that the Government has the right to modify and I entirely agree with him that the Government should have the right to modify the Award, because, after all,

* P. D. Vol. 7A. (R. S.), 2nd September 1954, pp. 1207-16.

the Government which he is in charge of, has to consider the welfare of the people as a whole and not merely of one section of the people, and they carry the responsibility all together. Therefore, that is a very legitimate right. As I said, the question is whether they had exercised their right properly.

Now, Sir, in order to appreciate the point that I propose to make, I think it is necessary to itemise the modifications which the Government has made in the Labour Appellate Tribunal's Award. What are the modifications ? So far as I see, the modifications are four. In the first place, the Government has added a new area, called class IV area, which is to comprise populations of less than 30,000. The previous awards, commencing from the award of Mr. Justice Sen, the Sastry award and the Tribunal award, have all agreed that it was enough to classify the areas into three classes. A fourth class was not necessary, but the Government felt, for reasons I have no doubt the Hon. Finance Minister will explain in the course of his reply which led them to create this new class IV area. Sir, the second thing they have done is to have fixed the salary for the Class IV area. So far as A Class banks are concerned, the minimum salary—I am not dealing with the other matters such as house rent allowance and dearness allowance, because what we are concerned with is the basic minimum salary—is Rs. 66. For B class banks it is Rs. 60; for C class it is Rs. 51, and for D class also it is Rs. 51, I think my friend will correct me if I am wrong. I find the two bracketed together. The third change which the Government has made in the Award of the Tribunal is that they have exempted from the operation of the Award Part B and Part C States, except the three towns, I think, of Delhi, Ajmer and some other town. I forget now. And the fourth modification which the Government has made is to grant complete exemption to a bank which is called the United Bank of India.

The Minister for Finance (Shri C. D. Deshmukh): May I point out that protection of the present emoluments is also **a** modification of the Award ?

Dr. B. R. Ambedkar: Yes, I take it to be so.

Shri C. D. Deshmunkh: I assure the hon. Member that it is so.

Dr. B. R. Ambedkar: Now, Sir, what we have to do is to consider the grounds urged in support of these modification. It is said that banking is a very necessary industry or service for the development of India, its commerce and its industry. It is a thing, I think, which nobody would dispute, that banking is a very essential thing which ought to be sustained by all legitimate means. Secondly if the banks are necessary, then salaries and wage bills of employees must be so fixed that they will allow the banks to make a profit. That is the proposition, I think, which most people would question, but that is one of the foundations on which the modification rests.

The first thing to which I would like to draw the attention of the House is this. There is in existence today, in fact in operation, the Sen Award. It has been in operation since 1951. Its scales were certainly much higher than the scales of the Sastry Award. Now the point is this. This award given by Mr. Justice Sen in 1951 has been in operation and was put into operation by the Government by special ordinance, because the Sen Award was declared to be void, by the Supreme Court, on the application of certain bankers on the ground that there was some technical defect in its composition, and, therefore, the Sen Committee was not entitled to give an award. When the bankers had started reducing the salary of the employees, Government stepped in, and by an ordinance declared that the wages were frozen, that is to say, whatever was given to the employees under the Sen Award would continue notwithstanding the fact that the Supreme Court had declared the Award to be void. Now, Sir, that is one piece of evidence, I submit, which goes to show that the argument that this Award, if placed upon the shoulders of the banks, would not leave them with sufficient profits does not seem, to my mind, to carry any weight at all.

Then again, let us compare the figures which have been supplied by the Reserve Bank in a booklet, I understand, which is called, "The Trend of Events" or something like that. It contains figures from 1949 to 1953. I have taken out just the relevant figures. Now, in the case of A class banks, there is a fall in the working capital of 10 per cent gross

earnings have gone up by 20 per cent, and the dividends have increased by 8 per cent, during this period. In the case of B class banks, there is a fall in deposits of 13 per cent, also a fall in working capital of 13 percent., but gross earnings have gone up by 9 per cent. In the case of C class banks, deposits have gone up by 12 per cent., working capital has gone up by 12 percent, and there has been an increase in gross earnings, and also an increase in dividends. So far as the D class banks are concerned, they appear to me to be a most prosperous institution in this country, because there has been in their case an all-round increase, in deposits, in working capital, gross earnings and dividends. Now, Sir, there is no doubt that there is a certain amount of fall in the profits with regard to calss A banks and class B banks. What are the reasons for it ? Is it the reason that the Wage Bill has increased, or, does the reason lie somewher else ? It seems to me that there is a fall in the deposits, and a considerable rise in the rate of interest, to account for the fact that there has been a certain amount of fall in their profits. And surely, the Wage bill could not be used as a ground for urging that the banks have been sent into ruination by this Award. I therefore, submit that it is not possible to accept the argument that profits have gone down because of Wage bill. They have certainly not gone down on that account, although they may have gone down. Therefore, this argument certainly cannot be used for the modification of the Award in order to bring down the wage as fixed by the Tribunal.

Then again, Sir, with regard to the second change, namely, the creation of a class IV area I do not quite undrestand why the Government felt the necessity of creating this new area. The cases were argued before three tribunals. There were innumerable lawyers representing the workers and representing the bankers. Surely, none of them ever thought that it was necessary, in the case of any class of banks, that this new area should be created. What led the Government to create this area, I do not quite understand.

Then, Sir, the third change—the exemption of Part B and Part C States—seems to me to be one of the most difficult things to justify.

Mr. Chairman: It is getting time.

Dr. B. R. Ambedkar: I have just a few things to say .....

Mr. Chairman: Yes, as briefly as possible.

Dr. B. R. Ambedkar: Thank you, Sir. It is very difficult to understand on what ground these two areas of Part B and Part C States could be excluded from the operation of this Award. Now, Sir, what does this mean ? It means that the lowest scale which the Government has laid down for class IV area, namely, a minimum salary of Rs. 51, is not to be operative in Part B and Part C States, that is to say, the employees have been left at the mercy of the employer.

They may pay them any wages they like. May be that banking is necessary and that banks should make profits. That also be a reasonable thing, but should we allow this kind of exploitation, complete exploitation ? No minimum standards have been fixed at all. It seems to me completely inexplicable and un-understandable.

Now, again, the fourth modification made by the Government in respect of the exemption of the United Bank of India is also a very extraordinary thing. So far as I have been able to gather any information about this particular institution, originally there were four banks started by the refugees in Calcutta to help themselves, I believe, and to carry on the business of banking.

The Deputy Minister for Finance (Shri A. C. Guha) : I am afraid the lion. Member is not quite correct. The banks were there long before the partition. Only, they were amalgamated into one bank after the partition.

Dr. B. R. Ambedkar: I am very glad to hear that. That supports me much more. I was taking a broken reed for my stand. I take it that this is a long-standing institution, but they were amalgamated.

Shri A. C. Guha: May be long-standing but may not be sound-standing.

Dr. B. R. Ambedkar: This bank, according to the information I have, has a working capital of Rs. 33 crores.

Let my friend deny it or let him correct me. He knows something about this bank evidently. The capital of this bank is somewhere near Rs. 33 crores. Now, according to the classification that has been adopted by the Sen Award, the Sastry Award and of the Appellate Tribunal, this bank ought to be placed under A class banks, because A class banks are banks whose working capital is Rs. 25 crores or above. Certainly this bank as I said, ought to be in the A class and the scale prescribed by Government ought to be applied to this bank. Apparently there seems to be no ground. Evidently this bank for some reason which I am unable to understand, was in troubled waters. It applied to the Sastry Committee and asked for some exemption. The Sastry Committee gave it exemption up to 31st December 1954. They said "After that date the Award will apply to you." When the matter went to the Appellate Tribunal, this bank which was not satisfied with the concession given to it by the Sastry Committee, again applied for further exemption, and the Tribunal was pleased to extend the period of exemption up to December 1955, and the Government in its notification specifying the modifications which they wanted to make said : "This Award shall not apply to this bank at all." I hope that my friend does not say that it shall never apply to them. I hope it will apply to them some day. It requires some justification as to why the Government was so biased in favour of this particular bank as to set aside the limited concession that was given by the two previous tribunals and exempted it altogether. There is no justification whatsoever.

Now, there are other points to which I wish to draw the attention of the house. I find that in certain respects the Government ought to have modified the Award but has not modified, and the first point which, I think the Government ought to have taken into consideration as a point requiring modification is the system of classification that was adopted from the very beginning, from the Sen Committee down to the labour Appellate Tribunnal. Now, Sir, I should like to give just one illustration to show how absurd has been the classification. Take Class A banks. Class A banks are banks with a working capital of Rs. 25 crores or more. It does not

set any upper limit. It just says Rs. 25 crores. That is to say, all other banks who have—may be—Rs. 100 crores as working capital or Rs. 200 crores as working capital, are to be on a par with a bank who has got just Rs. 25 crores as its working capital. As a flagrant illustration of this wrong classifiaction, I find that the case of the Imperial Bank is the most apposite. My friend there has given figures, but I would like to give the figures that I have for what they are worth. Its capital, I understand is somewhere about Rs. 218 crores, and it has deposits totalling 41 per cent, of the total deposits of all the Indian scheduled banks. Now, Sir, I should like to ask whether it is right to place a bank with Rs. 25 crores as working capital on the same footing, on the same par with a bank which has got Rs. 218 crores as working capital and whether it was not desirable and necessary for the government to create a special class of the Imperial Bank.

Prof. G. Ranga (Andhara)**:** Let them nationalise it.

Dr. B.R. Ambedkar: I have not got all the figures but there are many groups between Rs. 25 crores and Rs. 218 crores, and I am sure that, if there had been many classifications, many employees would have got larger benefits by way of wages and other emoluments, because they will all be related to profits, but the Finance Minister has very quietly accepted the classification proposed by these three bodies without proper investigation.

Mr. Chairman : You must wind up. Dr. Ambedkar. There are other speakers.

Dr. B. R. Ambedkar: Yes, Sir, I would not take more than a minute or two. I do not know why my hon. friend, who made an exemption in the case of the United Bank, which was really an exemption which worked adversely to the working classes, did not make a different category of the Imperial Bank, so that it would have been a discrimination in favour of the working classes. Surely, one would have been on a par with the other.

Then, there is another thing arising out of this point of classification. None of these three bodies, the Sen Committee,

the Sastry Committee and the Appellate Tribunal, had felt it necessary to make a distinction between Indian banks and foreign banks in this country. By foreign banks I mean the exchange banks. I find from the Sastry Award that there were twelve of these exchange banks which were a party to the dispute before the. Sen Committee, the Sastry Committee and the Appellate Tribunal. Now, Sir, each of these banks according to the Sastry Award, has more than Rs. 50 crores by way of deposits which are mostly gathered from the depositors in this country. Now, everyone knows that these foreign or exchange banks mainly engage themselves in supporting foreign investors or foreign commerce.

They render, I suppose, very little help to the indigenous industry or to the indigenous trade. That is one point. Secondly, they import a large volume of their personnel from outside and Indians whom they employ are employed on the lowest rung of the ladder. The Europeans whom they employ are paid fabulous salaries. Surely, I ask whether it is not justifiable to make a distinction between the Indian banks and the foreign banks and to enable Indians at least to get some advantage from these foreign banks which is all going to the foreign employees. Sir, I have done.

(50)

REPORT OF COMMISSIONER FOR SCHEDULED CASTES AND TRIBES FOR 1953

***Dr. B. R. Ambedkar** (Bombay)**:** Mr. Deputy Chairman, this is the third Report which the Commissioner for the Scheduled Castes and the Scheduled Tribes has submitted to the President. At the outset, going through the Report, one notices that the Commissioner makes a complaint against the Members of Parliament blaming him for not taking action on the various matters discussed by him in his Report. He says that the Members of Parliament have forgotten that he is not an executive authority, that his duty is merely to report. The executive departments are supposed to give effect to whatever recommendations of suggestions that he makes, I think his observations are very sound. He is not an executive authority and for the purpose of criticising what action has been taken, the criticism must be levelled either against the Home Minister or against the other departments of the Government of India. But, Sir, while one must admit the legitimacy of the criticism made by the Commissioner, I think there is one criticism that one can legitimately make against the Commissioner himself in the matter of drafting and presenting his Report. I was referring to his chapter dealing with complaints, because I thought that would be one of the most interesting and instructive chapters in that book. We are all aware of the fact that the Scheduled Castes in particular are subjected to all sorts of tyrannies, oppressions and maltreatment at the hands of the villagers in the midst of whom they live. And it would undoubtedly be a matter of great interest to know what are the tyrannies, maltreatments and oppressions to which they are being subjected almost every day, I have no doubt that the Commissioner's report would be the proper place where such complaints would be

* P. D., Vol. 7A, (R. S.), 6th September 1954, pp. 1447-75.

recorded, but I find the Commissioner absolutely silent over this matter of the gravest importance for the Scheduled Castes. I find, for instance, that from the complaints which have come to me—and I am sure that many more complaints must have gone to the Commissioner; they could not be less than a thousand, or certainly five hundred, but I mention one or two which have come to my notice and are of very recent occurrence—I am told on very reliable authority that in Rajasthan thirty Scheduled Caste people have been shot down by the so-called dacoits. The real fact is that the Rajputs and the high caste Hindus do not like the Scheduled Castes in Rajasthan to enjoy what are called the fundamental rights which give them equality of status with the other Hindus. In order to terrorise them and to make them nervous, in the matter of exercising these fundamental rights, the high caste Hindus have organised themselves into a band of dacoits and they go on shooting the Chamars, who are trying to exercise and derive the benefit of the fundamental rights. Police parties have been sent there in order to give protection to them, but my information is that the police are in league with the dacoits. Half a number of guns possessed by the police were handed over to the dacoits and the report is made that the guns have been snatched away from them by the dacoits. Half the number of bullets are again handed over to these dacoits by the police. Only half are fired, probably in the air without causing any effect. The result is that the dacoits are getting on merrily. The dacoits are really nothing else but what existed in the southern States of America known as the Ku-Klux-Klan, a band of Whites who were bent upon shooting down the Negroes if they tried to exercise the right of equality which was given to them after the Civil War. I do not find any mention of this incident in the Report of the Commissioner.

I mention another incident, and that has occurred in Bombay. One Bhangi who was living in a village was supposed by the Hindus to have brought about a certain disease in the village. They thought the malignant influence which he possessed was the cause of a certain disease which was prevalent in the village. They caught hold of him and asked him to take a burning fire on his head and walk around the

village, so that the evil forces which brought about the disease may pass away. Fortunately, they forgot that he had a turban on the head, and he too forgot to remove the turban. And the burning fire and the pot in which the fire was placed were so hot that practically half his cranium was burnt. I find no mention of this in the Report of the Commission. I know of a case in the Hyderabad State, in the Aurangabad district, where a certain Scheduled Caste woman was declared by the villagers as a witch who was responsible for some kind of an epidemic that was prevalent in that village. They questioned her. She could hardly prove her innocence; there was no method of proving. The result was that not only she was belaboured, but her house was burnt, and the members of her family were subjected to ignominies of the worst sort. I do not find any mention of that in the Report of the Commissioner.

My hon. friend, the Home Minister, I think, will admit that the Scheduled Caste people, for good reason or for bad reason, are in the habit of sending their complaints to me as well as to the Government officers, and I too posses a long list of these tyrannies and oppressions. I thought that it would be right to expect some reference to these complaints in this public document. But there is none whatever. And I have been wondering whether this Report of the Commissioner, so far as the record of complaints is concerned, is a doctored and tutored document. The Commissioner seems to have completely forgotten one of the most important objectives that underline the creation of his office. The object was that public conscience should be energised by the presentation of the ugly treatment which the caste Hindus meted out to the Scheduled Castes, so that those who are enlightened enough may go among the public and tell them whether this is a behaviour worthy of a civilised people. But when you do not present these facts, when you suppress them for one reason or another, this important motive and object in the creation of this office, I think, is completely nullified. I do hope that in the next report which the Commissioner will prepare, he will bear this thing in mind, and not be ashamed to present facts as they are

10-00 A.M.

presented to him by the suffering masses, the untouchables. That is the first comment that I have to make over the nature of the report submitted to us by the Commissioner.

It is quite clear that in such cases as have been referred to by the Commissioner, there have been many violations of the law, and there have been an endless series of tyrannies and oppressions practised upon the Scheduled Castes. This is a matter which, I suppose, is a matter which is within the portfolio of the Home minister. To what extent are the laws made especially for the Scheduled Castes or the general laws made for all people respected, and to what extent are the breaches committed punished ? Sir, on the first day, when the Hon. Home Minister presented the Report to the House, I happened unfortunately to come a little late. But I did catch him towards the end of his speech. And the impression that was left upon me, of the speech that he had made, was that what he had said was said in a spirit not merely of lightheartedness, but—he will forgive me if I say this—with a certain amount of levity. He asked: What is the use of prosecuting people ? People will begin to do *Satyagrah,* people will begin to do all sorts of things. Therefore, let us not rely upon what might be called the vindication of the law. Well, if that is the attitude of the Home Ministry, then of course nothing can be expected. The lawlessness, which is being practised continously for thousands of years against the Scheduled Castes, has been lawful, and will continue to be lawful, because it is impossible for the Scheduled Caste people themselves to come forward to prosecute the breaker of the law. As the Commissioner has said, the Scheduled Caste people are economically so subservient to, so dominated by the caste Hindus, that it is quite impossible for them to come forward to challenge the very people on whom they depend for their economic livelihood.

That is an admission which the Commissioner has been making from the very beginning. It occurs in his first report, it occurs in his second report and he repeats it in his third report that it is useless to depend upon the Scheduled Castes themselves to vindicate their rights. They have neither the

economic independence against their oppressors nor have they got the means to prosecute their oppressors.

The second thing which the Commissioner does not seem to emphasise very much and which I know very well myself from my experience of twenty years is that in a large number of cases the police force is in league with the caste Hindus. Ninety per cent, of the police force is drawn from the caste Hindus. Only a few per cent, and a very small one is now being recruited from the Scheduled Castes but this only to the posts of police sepoys. There are no officers amongst them. The result is that the upper grade policemen are in league with the caste Hindus. More often they refuse to record the complaints of the Scheduled Castes when they go to the Thana, in their station diary even though the offence may be cognisable. They throw them out, turn them out and tell them to go away. They do not record the complaint and secondly if they do, they probably would conduct the investigation in such a slipshod manner that ultimately the case fails. In this situation I ask the Hon. the Home Minister whether he thinks that there is any duty upon him or not. I ask him whether the breaches of the law which are being reported and witnessed by Scheduled Castes or other people are not breaches of the fundamental law and the fundamental rights ? Are not fundamental rights part of the Constitution ? If you are allowing a large mass of bullies and hooligans to trample upon the fundamental rights, are you not bringing the Constitution to contempt ? Is it not your duty to create a special department either within the Home Ministry itself or separately for this purpose ? The United States has got a Judicial Department, the duty and the function of which is to see that the Constitution and the Federal laws are respected. I think it is high time that the Home Minister realises that if the Constitution is to function, if it is to be the law of the land, if all people are to recognise it, his duty is to see that it is enforced, and the only way in which he can enforce it is to take upon himself the duty of enforcing it and not leave it even to the State Governments who can never do it, not even to the Police who has no desire to do it, and not even to the Scheduled Castes who have no means

to do it. Therefore I hope that he will take the matter more seriously and attend to it in the manner in which a statesman ought to.

Now, I come to the subject matter of education. It is quite satisfactory I must admit, that the Government has been spending annually more and more on the education of the Scheduled Castes. If my friend will forgive my mentioning myself., he will realise that it was for the first time in the year 1942 that the Government of India, at my instance when I was a Member of the Executive Council, accepted that they too had the responsibility for the education of the Scheduled Castes. Theretofore, education was purely a provincial subject. It was only so far as the Muslims and Hindus were concerned, that the Government of India had taken upon themselves the responsibility of supporting the Aligarh University and the Benares Hindu University by an annual grant of Rs. 3 lakhs. I raised the question whether the Government which had recognised its duty for the Muslim and the Hindus, had not also a duty for the Scheduled Castes, and the Government of India agreed that it was a legitimate question and that the answer to that question could not be except in the affirmative. They granted Rs. 3 lakhs as a grant for the education of the scheduled castes from the Central funds. While, I am satisfied with the progress that is being made year by year by the enlargement of the educational grants for the Scheduled Castes, there are two points with which I am greatly dissatisfied. One is this: At the time in 1942 when this question was raised by me for the first time in the Government of India, it was agreed that the responsibility for the education of the Scheduled Castes up to the university standard in India was to be borne by the Provincial Governments and that whatever contributions the Government of India made towards the education of Scheduled Castes would be devoted for their education in foreign countries. According to that understanding, the first batch of Scheduled Caste students was sent to England, although there was great, difficulty in the matter of getting admission to English and American universities, because they were overflooded. Yet we here in the Government of India pressed upon the foreign

universities that as it was for the first time that the lowest of the low people were being sent for higher education, the foreign universities should show them some consideration. The result was that we were able to get admission for about 30 Scheduled Caste students. Thereafter, in 1945 the old regime ended, and the Congress regime came in 1946. I had hoped that a system which had been inaugurated in 1943 or so and which had been given effect to and in which the Government's responsibility for the education of the Scheduled Castes in India and their education outside was accepted, would be continued, but to my great surprise, great chagrin almost I must say I found that Mr. Rajagopalchari who became the Education Minister in the Congress regime and who has a great knack for giving a pious look to an impious act abolished the system of sending Scheduled Caste students to foreign countries, and since that time there had hardly been any student belonging to the Scheduled Castes who has gone abroad for further studies. I think that this is—what shall I say ?—a most dangerous thing from one point of view. No doubt the Hindus do not like my criticism, but I am firmly convinced that my criticism is right, and I must repeat it notwithstanding the opposition with which it may be met.

Shri B. K. P. Sinha (Bihar) **:** But the Scheduled Castes are also Hindus.

Dr. B. R. Ambedkar : Yes, if you call them so. I am statutorily a Hindu.

Shri B. K. P. Sinha : Factually also.

Dr. B. R. Ambedkar : Sir, the point is this. In this country, for reasons into which I need not go now, the fact is quite clear that the higher classes receive the highest education. Their children go to Cambridge, their children go to Oxford, their children go to the Columbia University and to all the other foreign universities.

Dr. K. N. Katju : Perhaps my hon. friend is probably not aware that Harijans or members of the Scheduled Castes and the Scheduled Tribes are being sent to the foreign countries.

Dr. B. R. Ambedkar : You are repenting, I see.

Dr. K. N. Katju : They are benefited by it.

Dr. B. R. Ambedkar : I cannot hear.

Dr. K. N. Katju: May I just say a few words? I heard him complain just now that the system of awarding foreign scholarships to the members of the scheduled castes has been given up and was being given up in 1946 by Rajaji. I was only just saying that foreign scholarships are being given today and that scheme was tried last year for one year and that scheme has now been made permanent for five years.

Dr. B. R. Ambedkar : You are reviving it because you have seen the folly of it.

Dr. K. N. Katju : It has been renewed. The scholarships are now being given.

Dr. B. R. Ambedkar : After an abeyance of several years.

Dr. K. N. Katju : I am not concerned with that point.

Dr. B. R. Ambedkar : You should look into the history of your department. You cannot simply say, 'I don't know' What I was saying was this. Notwithstanding what my hon. friend said, I think the criticism that I am making is very valid and very fundamental. Here in this country you find really two nations—a ruling nation and a nation which is a subject nation.

An Hon. Member : Question.

Dr. B. R. Ambedkar : The backward classes are all subject peoples. They have no authority in any place. None whatever. They have no place in Administration—they have no place in the Executive and the Executive and the Administration is entirely monopolised by the higher classes. They are monopolising it by reason of the fact that they have been able to get the highest education. Why not examine all the Secretaries of your Departments in the Government of India ? The son and daughter of every Secretary in the Government is to be found in Cambridge or Oxford. Twice and thrice they have made journeys in order to lodge their children there because they have the amplest means. The backward class man's son cannot get even primary education. This sort of

revolution in the two different classes is going on for centuries—it is an intolerable business because we cannot allow one class to rule for ever. For some time they may but they must see that the other classes also become educationally qualified in order that they too may hold the reins of government. We are not going to be subject people all the time.

Shri H. P. Saksena (Uttar Pradesh) **:** There are no classes in India. This is a classless country.

Dr. B. R. Ambedkar : Therefore what I am saying is this, that if you really want to unify the people, to bring all the people on level, then it is not enough that you should get the highest education and others should get the lowest and not even the lowest. It is from that point of view that you must introduce the system of foreign education. It was with that aim that I struggled to get some quota from the Government of India and asked them to put the responsibility for university education upon the provinces. The States have been jolly glad to throw the responsibility upon you. What do they do ? They are having prohibition, making people sober. Personally for myself I think a sober man who is an ignoramus is not to be perferred to a man who is educated and who drink a bit. I prefer the latter. I am glad to hear that my hon. Friend is now reviving the system of sending scheduled caste boys to foreign countries. I congratulate him.

Now, Sir, the other thing which has recently come to my notice is this, that the Education Department has issued a circular—I think a month or two ago—to the effect that those scheduled caste boys only who have secured 50 per cent. marks in the examination shall get scholarships. Others will not get. I am wondering whether a generous Government with a sympathetic heart desiring to elevate the scheduled castes would ever think of prescribing so hard a test as securing 50 per cent. You must consider the condition in which the scheduled caste boy lives. Probably his father or mother has not got even a room set apart for his study. He probably has not got a lamp to sit by at night and study. He is living in the midst of a crowd. How do you expect him to secure 50 per cent. marks in the examination ? It is an absurdity—utter absurdity. You must, for some time allow the ordinary

standard *viz.,* of 33 per cent. which has been recognized by all the universities and which is being recognised by you also for the purposes of employment in the Government of India. If a boy who merely passes is fit to be employed by the Government of India, why is he not fit for the grant of scholarship for further education unless you want deliberely to put some kind of an impediment in the growth of their education ? The difficulty is this. The admissions take place some time in the last week of June. Various colleges admitted scheduled caste students without asking for fees because they knew that the Government of India would give them the scholarship. After three months of the joining of the College, the Ministry comes out with a circular saying that only those who have secured 50 per cent. will get scholarships. What are the colleges to do with the boys whom they have admitted on the assurance that the previous system will continue in operation ? What are the boys going to do who have got themselves admitted into the college ? I hope my hon. friend the Home Minister will look into this matter and take it up with the Education Minister and ask them to square up this difficulty, at any rate so far as this year is concerned. You may do what you like next year provided you give enough notice both to the students and to the colleges as to what you propose to do.

Then I come to the question of services. The Commissioner has divided his figures with regard to the services under three groups—the Army, the All india services and the Central Services of the Government of India. With regard to Army, I find that in certain categories the position has deteriorated. In 1952 there were two Second Lieutenants belonging to the scheduled castes. In 1953, the position is "nil". Of Junior Commissioned Officers, in 1952 there were 601. In 1953 the number is 435. Non-Commissioned Officers, in 1952 there were 3,273. In 1953, the figure has gone down to 2,533. Other ranks, in 1952, the number was 22,288. In 1953 it has gone down to 18,666. I am quite unable to understand this deterioration in the position of the scheduled castes in the Army. The Army, I thought, is the one place where not much intellectual calibre is necessary, I mean in the other ranks.

may be that in the higher staff it is required—much intellectual eminence. But we are not talking about them. But taking the other ranks, we find that the figure has gone down from 22,000 to some 18,000. Why? The Army, I understand, has been expanding, and with the expansion of the Army one would naturally expect an increase in the number of scheduled caste men in the Army. In all other places, you say they are unsuitable. And that is a very ambiguous phrase. All public service commissions and appointing authorities have learnt that phrase by heart. You simply say the man is unsuitable, and there is an end of the matter. But in the Army what is there to be unsuitable? What is the unsuitability about? There you have certain measurement of the chest. There are very few people among the scheduled caste's who would not fulfil that test. Then you have certain tests of height—some 5 ft. 4 inches or so. Well, I think all scheduled caste candidates would fill up that height (Interruption). Very few, there may be, I admit, who may fail. But given these physical standards of health, chest measurements and height, I should have thought that almost every scheduled caste man was fit to be in the military service. And when you are denying them service in other departments of the Government of India, surely you ought to make some concession to them in departments like the Army and the Police where education is not a matter of any considerable moment- But there again you have been behaving in a stepmotherly fashion. I do not know whether the Home Department evertakes interest in these figures, or knows them and pursues the matter. Surely, the Commander-in-Chief ought to be asked by them as to why this deterioration has taken place.

Then, Sir I come to the All-India Serviced There are what they call the Administrative Service and the Indian Police Service. Recruitment to these, I think, started through the Public Services Commission, in the year 1952. My hon. friend Shri Datar will correct me, if I am wrong. But I think that is the year.

The Deputy Minister For Home Affairs (Shri B. N. Datar) : About 1946.

Dr. B. R. Ambedkar : No, I am not counting those whom they recruited from the Provinces. No scheduled caste man was recruited except one or two; the rest they found to be utterly unfit, although the Provincial Governments thought them quite fit. The Central Public Service Commission found them utterly unfit. That is all past history and I am dealing with the present. Has there been any recruitment to the Indian Administrative Service since 1952—when the new Constitution came into force ? I have not seen single scheduled caste candidate being chosen by the Public Service Commission for the Indian Administrative Service—not one. I have not seen a single candidate being chosen by the Public Service Commission for the Indian Police Service either. It is only last year that I struggled with the Public Service Commission and induced them to accept one for the Indian Police Service. I wonder whether the Home Department which is in charge of services look upon this matter as of no moment or looks upon this matter as a matter of high moment. These are executive services. My hon. friend knows very well the difference between an executive service and an administrative service. An administrative service is more or less a clerical thing. The executive service possesses the power of direction. It has directive authority. Now, I want to say and I want to say it quite fearlessly that 2,000 clerks are of no value as compared to one officer holding an executive post. In Hindi we call it "Maarneki Jagah". What are these poor clerks ? You will see in fortresses—but you have none in U.P.—in my part of the country the place is full of Maratha fortresses.

Shri B. N. Datar : "Maar Quilla" We call it.

Dr. B. R. Ambedkar: आदमी वहाँ बैठकर फायर कर सकता है दुश्मन को,

Now, these executive posts are posts from where direction can be given. The clerks need all kinds of protection. Any officer may spoil their character-roll by writing a bad remark or saying that the man is no good. The only way he can be protected is by having somebody in the executive service who might look into this matter and see no injustice is being done. Similarly with regard to the policy laid down by the Government. Whether that policy will fructify and yield

results depends upon who are the people who are charged with the duties of executing that policy. If the executive authority is unsympathetic, is antagonistic, that policy, however good it may be, can never fructify. And let me add, that so far as my experience goes, the whole of the administration which is now composed of caste Hindus, is the most unsympathetic administration that the scheduled castes have to suffer under. This is because of the unsympathetic character of the administration. And when we have been shouting for representation in services, that claim is being maligned by calling it communalism. What we are trying to do is to reduce the communalism of the other people. We are not asking for communalism. I hope my hon. friend will remember this. Until and unless your administration and your executive becomes more sympathetic to the scheduled castes, none of your laws and none, of your administrative policies will bear any fruit.

Then let us come to, what are called, the Central Services. Here I am taking only the figures of permanent posts, not the temporary ones, as they stood on 1st December, 1952. The Commissioner says that the Ministry of Railways, the Ministry of Communications, the Ministry of Finance, the Ministry of Information and other organisations under its control have not supplied information on this point. Therefore, these figures relate to those departments which have supplied the information.

The figures are very telling. In class I the actual strength is 752 and the scheduled castes number 10; according to the proportion fixed by the Home Ministry that ought to have been 175. Class II (gazetted posts) total number is 642 while the scheduled castes number only seven; that ought to have been 107 according to the proportion; class I (non-gazetted) total number is 1123 and the scheduled castes number 44; that ought to have been 185. Class III total number is 10,372 and the scheduled castes number 536 and this ought to have been 728. In class IV, the total number is 8807.

Dr. P. C. Mitra (Bihar) **:** How many of them applied ?

Dr. B. R. Ambedkar : The scheduled castes number 1251 but ought to have been 1478. Class IV servants, I think, are

chaprasis and there you find the number of scheduled castes people fairly large. There are the figures which must be within the ken of the Home Ministry. They have laid down a proportion and surely, it is their duty to see that that proportion is carried out by the different Ministeries. Why has there been this defalcation on the part of the various Ministeries and why has the Home Minister not taken any action ? If he had taken any action, what is the action that he took in order that the scheduled castes receive their quota which is fixed by him ? Sir, it is a very black picture, if I may say so, very black. It reminds me of a cartoon which was drawn by the Germans during the last War. The cartoon depicted an old negro gentleman in Washington. When war was declared, the negro—as everybody knows, negroes are not well disposed towards the whites in America; they are always very angry, quarrelling with them for not giving them equality of opportunity—suddenly felt very patriotic and he said that he must transfer some of his patriotism to the young boy who was his son. He went to the market and purchased an American National Flag—small one which the boy could hold—and gave it to the boy. He said, "My son, I want to show you today our capital, our capital". The boy did not realise what it meant. Holding the boy by the right hand—and the boy holding the flag in his left hand—the old man took him round and round in Washington City, showed him the Supreme Court, the Congress House, the Senate and so on and so on and ultimately, after lunch, came down to the White House, stood there for a minute or two, and said to the young boy, "My dear boy, this is the House of our President". But the boy said, "Father, what are you talking ? He is a white man and how do you praise him ?" The old man said, "Oh, shut up, that is only outward". That is to say, inside he is quite black. I think that might well be applied to the Home Minister; notwithstanding the white dress, he is very black inside and the evidence is the neglect which has been shown in the matter of seeing that the Home Ministry's own orders are carried out. Nothing has been done.

I have dealt with services and I will deal now with the question of propaganda. I see that the Government of India

has sanctioned about Rs. 50 lakhs for the year 1953-54 for the purposes of carrying on propaganda against untouchability. The scheme, I understand, is that a part of the money is given to private agencies choosen by the State Governments and part of the money is given to all-India or Organisations directly by the Government of India. That is the scheme. I have no idea what my hon. friend means by the abolition of untouchability. What is untouchability ? Let us understand it very carefully. Untouchability, so far as I understand it, is a kind of a mental disease of the Hindus. It is not a disease from which I am suffering, not any tumour which I have got, not a rheumatic pain or any of the physical disabilities which can be removed but it is a mental twist; every Hindu believes that to observe untouchability is the right thing. I do not understand how my friend is going to untwist the twist which the Hindus have got for thousands of years; unless they are all sent to some kind of a mental hospital, it is very difficult to cure them and I do not want them to be sent there. Therefore, let us understand what we talk and what we are doing. Besides, all must realise that untouchability is founded on religion. There is no doubt about it and let us not be ashamed of realising it. Manu, in his law book, very difinitely prescribes untouchability. He said that the untouchables shall live outside the village, that they shall have only earthen pots, that they shall not have clean clothes, that they shall beg for their food and so on and I canot see how you blame the Hindus. For thousands of years, by the teaching of this dirty law. they have got inculcated in their mind the doctrine that untouchability is a most sacred thing. The Hindu has been taught that the most pious and best of life is that of a rat who lives in a hole, unconnected with anyone, he must not touch this, he must not touch that, he must not eat this, he must not eat that, etc. and this is a kind of life which a rat observes by living in a hole. A rat would not allow another rat to come into its own house. That is the position and all that we can do is to see that untouchability which, as I said, is a mental twist of the Hindus does not protrude so much into public life as to involve the civil liberties of the people.

Dr. P. C. Mitra: Untouchability is only a custom and usage.

Dr. B. R. Ambedkar : If you want to study that subject with me, I can spend a few hours with you.

Therefore, Sir, this propaganda business is quite impossible for me to understand. I agree with my hon. friend Mr. Kunzru that it may result in nothing else but a waste of public money.

Secondly, I do not undersand why this matter should be left to these what are called organisations of social workers. A social worker in this country is a professional, he has no such things as inner sympathy. He is a professional. If the Muslim league wants him, he will probably serve the Muslim League; if the Hindu Mahasabha wants him, he will serve the Hindu Mahasabha; if the Congress wants him, he will serve the Congress. He is a professional and there is no such thing as, for instance, an inner love. As Tolstoy has said— rightly said—before you serve, you must learn to love., No man can serve anybody unless he loves him. These professionals have no love; they are simply trying to make their livelihood and therefore, perhaps, I would not be suprised if they are getting remuneration from all the three. I do not wish to comment on it. The proper thing, if my hon. friend wants to do, seems to me to be to take hold of these unemployed graduates. There are plenty of them, intelligent educated boys, who can be said to have some kind of modern outlook in life or who might be said to have developed some public conscience in the matter. You employ them on some reasonable salary, give them a motor-bike or a cycle and give each man seven, ten or fifteen villages, an ask him to go round village by village, hold public meetings, address the people on the question of untouchability and tell them that this is something which is going to bring disgrace upon this country in the modern world. That way it would be far more fruitful and far more effective than the kind of thing that my hon. frined is doing. Why these social organisations have a fascination for the Congress Government, I do not know. In olden times, during the British regime, the Centre acted administratively through the Collector. Money was given to him and he was

asked to discharge certain functions in certain fields. He could be held accountable to the Government. Money was safe in his hands. If you do not like the Collector then employ the kind of agency that I have submitted, namely, a group of intelligent boys who would be longing to do this service. This kind of a thing, a motley crowd, calling itself by some kind of a name to attract people is of no consequence at all.

Then , Sir, ……..

Shri K. B. Lall (Bihar) **:** Will they not be professional ?

Dr. B. R. Ambedkar : The Government servant is not a professional. Why ? You want to use them later for canvassing votes for you in the elections. That is the whole trouble about it.

Now, Sir, regarding the other point, namely, selection of certain agencies by the Government of India and giving them funds to do this propaganda work, the Commissioner has made some observations on some communication that passed betwen me and the Home Department. He has said that other agencies have accepted the offer of the Government to receive money and to do propaganda. I was one naughty boy who refused and he thought that it might be well in bringing this default on my part to public notice. I wish he had given him the full letter which I had written to the Home Department. I think Mr. Datar dealt with the matter if I mistake not, and he will recall that what I said was this that the bodies that were chosen by the Government of India, were political parties like the Harijan League and some other League, something like that, were all political bodies. The Federation was also a political body. So I thnk it was wrong for Government to hand over public funds to political bodies who may use the funds for political propaganda and not for the elevation of the Scheduled Castes, and I told him that there was the Chairman of another body which was being built up in Bombay, which was a purely social welfare body. It had large funds, somewhere between two and three lakhs of rupees. They were going to build a hall and carry on activity. Of course I forgot to mention therein that that body, although it was formed in Bombay, was not confined in the matter of its social

work either to the Bombay city or to the Bombay State. It was open to them to do any kind of social work in any other part of India. The only thing was that its centre and head office would be in Bombay. Mr. Datar rejected my suggestion and put this matter in the report. All that I want to say is this. If Mr. Datar had communicated to me that he did not accept my suggestion, I am sure within myself that I would have changed my mind and accepted the offer in the name of the Federation because beggars cannot be choosers if for no other reason, and I even now say that if he insists that the Federation is the only body which the Government of India would entrust the money with, well, I have no hesitation, but I still maintain my view that this work outhgt not to be entrusted to political bodies.

Now, Sir, I come to the question of the economic emancipation of the Scheduled Castes. This, I think along with education and services is the most important thing for the raising of the status of the Scheduled Castes. Now what are the means of raising the economic status of the Scheduled Castes ? Obviously the economic emancipation of the Scheduled castes will depend upon the opportunity that they get for what might be called entry into gainful occupation. Unless and until doors are open to them where they can find gainful occupation, their economic emancipation is not going to take place. They are going to remain slaves, if not slaves, serfs of the land-owning classes in the villages. There can be no doubt on that point at all. Now, Sir, out of these gainful occupations I personally feel no doubt that the most important thing on which Government ought to concentrate is the giving of land to the Scheduled Castes. They must be settled on land so that they might obtain independent means of livelihood, cease to be afraid of anybody, walk with their heads erect and live fearlessly and courageously. I think this is a thing which all the Ministers are agreed upon. I take it that the one thing that Government ought to do is to provide land for the Scheduled Castes. Let us take that question. Firstly, is there land available to be given to the Scheduled Castes ? Has Government any power to sequester land from those who are owning land now, take it away and give it to the Scheduled

Castes ? Is it possible for the Scheduled Castes to be financed by the Government in the matter of purchasing lands if land was to be sought ? These are the three ways by which land could be given to the Scheduled Castes. Government should by law limit the holding of those who hold land and take away the excess and hand it over to the Scheduled Castes. Secondly the Government may finance the purchase of land if any is to be sold.

Sir, it is clear to everybody that land-holding in India is not merely a matter of economic livelihood. It is a matter of social status. A person holding land has a higher status than a person not holding land. Now it is quite clear that in the villages this matter of economic status is of the utmost importance to everybody. And no Hindu wishes that an untouchable should possess a piece of land so that he may reach a higher status than his community is entitled to under the social system. Sir, the question of a scheduled caste man getting a bit of land in the village seems to me to be utterly impossible. I do not know to what extent the Government will be able to make a law limiting the holdings. There might easily be a revolution. If the Government had, in passing land legislation, instead of giving the title of the property to the peasant, kept the title to themselves as paramount owners of land, they might have been able to pass a law that as the land belonged to the Government nobody would be allowed to hold more than a certain number of acres. But the Government has committed one of the greatest acts of folly in creating these peasant proprietors. Sir, once Talleyrand told Napolean. "Why do you want all this bother with Europe ? Why do you want to create all this enmity ? Why should you not be content with becoming the King of France with me as your Prime Minister?" There were a certain number of soldiers standing outside the palace of Napolean holding their guns with bayonets shining in the light of the sun. Napolean was a very abusive person. He told Talleyrand : "You were so much done in a silk stocking. Do you see my battalions ?" He said, "Yes, I see them". Then Napolean asked, "Why should I not be an Emperor ?" To that Talleyrand replied and my friends will remember that reply : "You can do anything

with these bayonets except sit on them. "Now, you have created these peasant proprietors. You can't sit on them : they will sit on you. You have bungled and bungled most wrongly notwithstanding the advice of many people not to do it. But just to win political elections, you did it and you are bearing the fruits of it now. However, this limitation of holdings therefore is an impossible thing.

I happened to study the report of the United Provinces Tenancy Committee appointed by my friend Mr. Govind Vallabh Pant. I know every line of it and I wonder whether the people who raised the cry that holdings ought to be limited know anything about the facts of it. What is the average holding in Uttar Pradesh ? The lowest is about 1 acre and the highest is about four or five acres. That is all that there is and the further fact is that every inch of land in the U. P. has been under cultivation and in occupation. You can do nothing there and that I am sure, is the case in most of the other States. Therefore my submission to the Hon. the Home Minister is this that unless you want to go on fooling the Scheduled Castes by telling them, 'Oh, keep quiet, we are going to give you a peice of land. Either we will have a ceiling ot we will finance your purchase. We will do this or do that, unless you want to go on fooling them like this, you ought to think of some other method of doing that. This is a problem which you must solve and if you do not solve it, you know what consequences there might be—most evil consequences. The fire is burning outside; it may easily come in and the Scheduled Castes may carry the banner and you and your Constitution will go under. Nothing will remain.

Now, Sir, I am going to make one suggestion to my hon. friend and it is this. I find from the Planning Commission's Report that a very large amount of what might be called cultivable waste is to be found in this country. According to the Planning Commission it is 98 million acres. Now, my suggestion to my friends is this. The Government is going, I understand, to amend the Constitution. They are fond of amending the Constitution. Why have a Constitution at all, I do not understand, if you are amending it every Saturday ? However, as you are amending it, I suggest that you amend

it and put the cultivation of waste land in List No. 1 so that it will come within the purview of the Central Government. The State Governments have not got the means of developing that land. They are living like dog in the manger, neither developing it themselves nor allowing anybody else to do it. Therefore there can be nothing wrong in taking over the waste land by amending the Constitution in List No. 1.

The second thing which I am going to suggest is one which many people may not find pleasant but I think there is no harm in suggesting. It is this, you again levy the salt tax. The salt tax was the lightest tax that we had in our country. At the time it was abolished, the revenue was about Rs. 10 crores and it might easily go up to Rs. 20 crores now. No doubt, the abolition of salt tax was done in the memory of Mr. Gandhi. I respect him and I suggest to you that you levy the tax and create a Trust Fund in the name of Mr. Gandhi—Gandhi Trust Fund for the development or settlement of the untouchables. After all, the untouchables, according to all of us, were the nearest and dearest to him and there is no reason why Mr. Gandhi may not bless this project from Heaven, namely, levying the tax and using it for the development of waste land and settling the Scheduled Castes on this waste land. There is promise but a scope for performance. You know in the game of poker there is a difference between promise and performance. I give you a scheme where there is not only promise but there is also performance. I do not understand why the people of this country should not contribute through the means of the salt tax for the elevation of the Scheduled Castes. You may keep it quite outside the Budget just as a sort of a Gandhi Welfare Scheme which will perpetuate the name of Mr. Gandhi and which will give relief to the people whom he wanted to protect and whom he wanted to elevate. This is my suggestion to the Hon. the Home Minister and I hope he will give this matter his most serious consideration.

11-00 A.M.

Sir, I have done and I do not want to say anything more. The only thing that I would like to say is this that in all this effort which is being made by the Government, by the various social workers and the social agencies, there is one thing which

gives me a very sad thought and it is this that our Prime Minister has taken no interest in this matter at all. In fact, he seems to be not only apathetic but anti-untouchable. I happen to have read his biography and I find that he castigated Mr. Gandhi because Mr. Gandhi was prepared to die for the purpose of doing away with separate electorates which was given to the Scheduled Castes. He has said in his biography, 'Why on earth Mr. Gandhi is bothering with this trifling problem ? Sir, I was shocked and surprised to hear the Prime Minister—rather Mr. Nehru then in 1934—uttering these words. I thought that since the responsibility of Government had fallen on his shoulder he may have changed his view and thought that he must now take the responsibility which Mr. Gandhi was prepared to take on his shoulder, but I do not find any kind of a change in his mind. Sir, in the year 1952 a conference was held at Nagpur under the Presidentship of my hon. friend Babu Jagjivan Ram.

I understood that there was a very big *shamiana.* Two silver chairs were placed on the dais, one for Mr. Jagjivan Ram and one for Pandit Jawaharlal Nehru. There was an audience of two hundred to three hundred and one thousand police. Pandit Jawaharlal Nehru was supposed to inaugurate that conference. I have got his speech here, but I do not wish to trouble the House by reading it, but this is the gist of it. He was, I am told, in great anger against Babu Jagjivan Ram for having organised the conference. He said loudly "I do not recognize that there is such a problem as that of the untouchables. There is a general problem of the economically poor and the problem of the untouchables is a part of that problem. It will take its place and receive its attention along with the other problems. There is no occasion, no purpose in bestowing any special thought upon it." Sir, if the Prime Minister is prepared to throw such cold water—not cold, water from the refrigerator, so to say—what enthusiasm can we expect from the rest of the workers who have taken upon themselves the duty or the responsibility or the interest in carrying on with this particular problem : I do not think that untouchabality will vanish. They believe 'yes'. I think 'no', as I said, because it has a mental twist. It will take years

and years. At the same time, there is no reason why we should not strongly agitate for seeing, whether untouchability goes or not, that the social, economic, political and constitutional right of the Scheduled Castes are fully protected. To that extent efforts must necessarily be directed.

Sir, there is one other word I should like to say. People might say that I have taken most of the time with the Scheduled Castes. I have not said anything with regard to the tribes and I am not going to say anything, because there are many friends who are more qualified to speak about them than I am, I shall, therefore, not venture to enter that field, but there is one thing which, I think, one can say and should say, because I find there is a good deal of confusion in the minds of the people as regards the relative position of the Scheduled Castes, the tribal castes and the criminal tribes. Now, Sir, with regards to the Scheduled Castes, the position is this : they are prepared—in fact, not prepared—but they are already within the pale of civilization. They are not outside. Their struggle is to achieve equality of opportunity and equality of status. That is their problem. With regard to the tribal people, their problem is totally different. They are outside the Hindu civilization. And the question that has to be considered with regard to these tribal people is this ; do they want to come within the Hindu civilization and be assimilated and then acquire equality of status and equality of opportunity ? I was talking to many leaders of the tribal communities—many men and women of the tribal community—they seem to be most reluctant to come within the pale of Hindu civilization.

Dr. Shrimati Seeta Parmanand : Question.

Dr. B. R. Ambedkar : They prefer to live outside, they do not want to come in.

With regard to the criminal tribes, theirs is a purely economic problem : how well can you give them the opportunity to earn a decent living ? If they can get the opportunity to earn a decent living, they will cease to be criminals.

Now, Sir, one question asked is this. It seems to me a matter of great regret that the Hindu civilization which is so many

years old, some say six thousand years old—many people will not be satisfied with that period probably they want to take it back—never mind about it, let it be six thousand years old—has produced five crores of untouchables, some two crores of tribal people; and some fifty thousand criminal tribes people. What can one say of this civilization ? With a civilization which has produced these results, there must be something very fundamentally wrong, and I think it is time the Hindus looked at it from this point of view—whether they can be proud of the civilization which has produced these communities like the untouchables, the criminal tribes and the tribal people. I think they ought to think twice—not twice a hundred times—they are conventionally called civilized—whether they could be called civilized with this kind of results produced by their civilization.

Sir, I thank you very much for this opportunity.

(51)

CONSTITUTION (THIRD AMENDMENT) BILL, 1954

*** Dr. B. R. Ambedkar (Bombay) :** Mr. Deputy Chairman, the Bill which is placed before this House raises two issues and it is desirable that the two issues should be considered separately. The first issue relates to the merits of the Bill, whether this Bill should be regarded as a good Bill on its own merits; and the second issue is, the manner in which this Bill is being carried through parliament. I shall say a few words on the merits of the Bill.

It is quite obvious that there is nothing new in this Bill. What the Bill seeks to do is to drop entry No. 33 in the Concurrent List and to substitute in place of that entry, the provisions contained in Article 369 as they stand now, with a small addition that is export of jute; otherwise, there is really no fundamental change at all and it is a mere substitution. Looking at it from this point of view, I cannot see how there can be any objection to the Bill as proposed by the Hon. Minister in charge of it. The only kind of dispute that could arise would be whether the provisions of Article 369 should be in the State List—List II—so that the States will have exclusive power or whether they should be placed in List I so that the Centre would have an exclusive power in dealing with these goods. The present position is this : According to Article 369 these matters or these goods are treated as though they are entered in the Concurrent List. That is the present position. In the Concurrent List, both the Centre as well as the States have the power to legislate. Therefore, looking at the present position as defined in Article 369 and entry 33, we find that both of them place these matters in the Concurrent List. It cannot be that the States can complain that any jurisdiction which was vested in them by the Constitution is being taken away by this amending Bill. The

* P. D., (R. S.), Vol. 7-B, 15th September 1954, pp. 2297-2303.

position, as I say, remains exactly the same : the only question is whether the legislative control vested in the Centre by Article 369—which was vested only for five years and no more—should now be continued for an indefinite period. Speaking for myself, I feel that that is a patter for the Administration to judge, whether the circumstances m which they are living now are so altered that the period of five years which was given to parliament to legislate over these items should be abrogated. On that point, speaking again for myself, I am quite prepared to submit to the decision of the Administration because they know far better than a Member of parliament can hope to do. "Therefore, Sir, so far as the merits of the Bill are concerned, I give my support to it.

The Hon. Minister in charge while speaking on the Bill, made some reference to consultations with the States. I heard him say that he consulted the opposite departments in the various States and that the consultation, so far as I was able to judge from the observation that he made, was, if I may say so, somewhat perfunctory. I think that this is a very grave matter for the simple reason that this Bill is not going to become law merely by the vote of the two Houses. The Bill will have to go through a further ceremony before it becomes law. In this connection, I would like to draw the attention of the Hon. Minister in charge to Article 368, particularly to clause (c) of the Proviso which says : "Provided that if such amendment seeks to make any change in—* * * (c) any of the Lists in the Seventh Schedule,* * * the amendment shall also require to be ratified by the Legislatures of not less than one half of the States specified in Parts A and B of the first schedule by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent "Therefore, this is one of those amendments ……..

Shri T. T. Krishnamachari : On a point of information. The first letter dated the 12th September 1953 was addressed to all the State Governments and the second letter dated the 20th August 1954 enclosing a copy of this letter was addressed

to the Chief Secretaries of all the States personally, not to the opposite departments of the Commerce Ministry.

Dr. B. R. Ambedkar : Well, I am sorry; I perhaps made a wrong statement and I stand corrected, but all the same I want to urge that my argument is very sound, for whatever may be the preliminaries that might have been negotiated between the Minister-in-charge and the State Governments, the fact remains that the consent of the States by resolutions will be necessary in order that his amendment may become law, and if my hon. friend had by courtesy and by discussion and by consultation already obtained the goodwill of the State Governments, the subsequent action by the State Governments, namely passing of resolutions, would have been a mere matter of form. But if they have not been satisfied with such consultations as the Minister has had, he may find that there is a hurdle which he may not be able to overcome. That is all I want to say.

Now I come to the manner in which the Government has been proceeding with the amendment of the Constitution. The Constitution is only about, I believe, four years old.

Shri B. K. P. Sinha (Bihar) **:** Four years and seven months.

Dr. B. R. Ambedkar : Well, not an adult yet—may not be a child, and in the four years and seven months of its life it has been amended three times; I believe this the third amendment of the Constitution. I do not know of any Constitution in the world which has been amended so rapidly and, if I may say so, so rashly, by the government in office.

Now, Sir, I would like, in order to illustrate my point, to place before the House the provisions in the Constitution of the United States of America and the provisions in the Constitution of Australia for the purpose of amending the Constituton. Later on I will show what difference there is between our Constitution and these two Constitutions in the matter of the amendment of the Constitution. In the Australian constitution, Article 128 lays down this provision that the amending law shall be passed by both houses by an absolute

majority in each House. That is the first condition Secondly it shall be submitted to the electors to obtain their decision upon the amending law passed by the two Houses by absolute majority. If the two Houses are not unanimous in the proposed amendment then the Governor-General is empowered to put the last proposed law for amendment to the electors for their decision. And then these are the conditions. If in a majority of the States a majority of the electors voting in favour of the proposed law and if a majority of all electors voting also approve of the proposed law, then and then only the proposed law shall become part of the Costitution on receiving the assent of the King. The conditions are that in the first place both Houses must pass the proposed law by absolute majority, and if they do not agree, or are not unanimous, then the power is given to the Governor-General to refer the matter to the electors. Even in the first case the matter must be referred to the electors and even then it is not merely by the majority of the electors voting in favour of the Bill but majority of the States, a majority of electors and a majority of all the electors voting must approve the Bill before the Constitution could be amended.

Now let us take the Constitution of the United States. In the Constitution of the united States, article 5 which deals with the amendment of the Constitution provides thus : "When two-thirds of both houses propose an amendment, then and then alone further action could be taken." The first condition is that two-thirds of both houses must pass the amending Bill or two-thirds of the States may call their conventions, that is to say, a meeting of the electors who may propose constitutional amendments as suggested by the State Government. Such amendments then will become law provided it is ratified by three-fourths of the States or by the Conventions in three-fourths of the States. I have taken these two Constitutions merely for the purpose of illustration. Many other provisions would be found in other constitutions.

Now what is the basic principle underlying this provision relating to the amendment of the Constitution ? It seems to me that a student who scrutinises these two articles relating to the amendment of the Constitution in Australia and

America will find that there are two principles which underlie any action relating to the amendment of the Constitution. The first is this that there must be notice to the people. The people must know that the Government is going to undertake the amendment of the Constitution. The second principles is that there must be consent of the voters either directly as in America or indirectly by the States by ratifying resolution.

Now, Sir, is our Government observing these fundamental rules ? It is quite true that our Constitution is a very fluid one. It is not as rigid, not half as rigid as the American Constitution or the Australian Constitution, and those who were in charge of framing the Constitution were fully conscious of the fact that the situation must be left fluid because it may be that circumstances would arise which would require amendment of the Constitution, and you cannot allow the Constitution to hold up the solution of social problems which are emergent. It was because of that that it was proposed that the provisions contained in Article 368 should suffice. We don't require except in certain cases reference back to the States or reference back to the voters, but I have not the least doubt in my mind that no one who had anything to do with the drafting of the Constitution ever thought that the government would rush in on the spur of the moment to amend the Constitution without giving notice to the voters. Notice to the voters, if I may submit, is a general principle of political life and party life. Even in England no party would undertake any piece of legislation which did not form part of its political programme for the election. Every party must have a mandate to do a certain thing. Without a mandate a party cannot do anything. You cannot take the voters by surprise and you cannot assume absolute authority to amend even the Constitution simply because you are elected. This is exactly what our Government has been doing. Simply because they have obtained a majority they assume that they have not only the power to make any law whatsoever relating to any of the entries which give them the power to make laws but they have also got the power, merely by being elected, even without notifying their intention to the people as such, to even amend the Constitution. Is the Constitution

3-00 P.M.

not different in any sense from an ordinary law ? Is it merely a scrap of paper to be amended at the whim of anybody ? There is a saying in Marathi—I do not know whether I can translate it into English properly—and that saying is a very good one and very appropriate. We say, if the old woman dies it really does not matter very much but what we are afraid of is that *Yama* gets habituated to coming often and often and what we want to prevent is the *Yama's* invasion. It does not matter if the old woman is dead or snatched away. This is exactly what has been happening and I have been noticing the great contempt or the low regard or respect which the Government has for the Constitution. You may amend the Constitution; nobody has any objection to amending it but certainly you ought to treat the Constitution on a somewhat different footing, a better footing, a special footing. Tell the people what you are intending to do and then you may do it. Otherwise it might become necessary even to amend Article 368 in a manner so as to prevent this facile invasion of the constitutional provisions. This is all that I wanted to say.

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(52)

UNTOUCHABILITY OFFENCES BILL 1954

***Dr. B. R. Ambedkar** (Bombay) **:** Mr. Deputy Chairman, I propose to speak on the Bill. I think it is impossible for me to remain silent during the discussion on this Bill, but I find that my hon. friend, the Minister-in-charge, has condescended to put me on the Select Committee on this Bill. There is a convention that a member who is on a Select Committee shall not speak or take part in the Debate on the motion for reference to a Select Committee. I do not know to what extent the rule has been observed in all its strictness.

Mr. Deputy Chairman : It has not been violated.

Dr. B. R. Ambedkar : I think in the other house it is not strictly observed and I understand that a member in such a position could speak. However, if the convention is a rigid one here I beg permission to withdraw my name, and I hope the Hon. Minister will concede.

Prof. G. Ranga (Andhra) **:** It is not a rigid one.

Mr. Deputy Chairman : Yes, it is a rigid one; we have been opbserving it.

Prof. G. Ranga: If either within the time

Mr. Deputy Chairman : It will be setting a bad precedent.

Prof. G. Ranga : There is no question of any bad precedent. What I understood always was that when other Members who are not Members of the Select Committee are anxious to speak, then the Members who are placed on the Select Committee are expected to give way, but it does not debar any Member of the Select Committee from exercising his privilege of speaking. Only if.....

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* P. D., (R. S.) Vol. 7-B, 16th September 1954, pp. 2417-18.

Mr. Deputy Chairman : We have been observing the convention that the Members of the Select Committee .....

Prof. G. Ranga : We have not observed it that way. It is not rule; it is a convention.

Mr. Deputy Chairman : The convention should be interpreted in that manner because it has been observed that way.

Prof. G. Ranga: There is no definite rule on this point but the convention we have been following is that generally Members who are Members of the Select Committee do not speak.

Mr. Deputy Chairman : On two or three previous occasions I have refused the Members.

Shri Biswanath Das (Orissa) **:** Because they have got the chance to place their views before the Select Committee, it is felt not desirable to give them the necessary .....

Mr. Deputy Chairman : It will be setting a bad precedent.

Shri Biswanath Das : Therefore the non-Members in the Select Committee are given the chance to place their views so that the Select Committee may have the advantage of considering those views as well. There is, I submit, no rule and we should not have any rigid convention to make it binding on the Members of the Select Committee not to speak. I would therefore appeal to my hon. friend Dr. Ambedkar not to consider it in that light and think of withdrawing his name from the Select Committee which I consider will be most useful and helpful.

***Dr. B. R. Ambedkar :** Mr. Deputy Chairman, before I actually deal with the provisions of this Bill, I think it is desirable that I should draw the attention of the House to the responsibility created by certain articles in the Constitution and the responsibility placed upon the Government to give effect to those provisions.

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* P. D. (R. S.), Vol. 7-B., 16th September 1954, pp. 2424-66.

I would first like to refer to article 13 of the Constitution. Article 13 says that all laws inconsistent with the Fundamental Rights are void from the date on which the Constitution comes into existence. That is a general provision which is laid down in article 13. It is, as a matter of fact, a general notice given to the public as well as to the Judges of the Court that if any question was raised before them which involved the adjudication of the Fundamental Rights, the court shall not give effect to any existing law that was in conflict with the Fundamental Rights. But the makers of the Constitution were not satisfied with the general declaration because they felt that it was too much to expect a common citizen to go to a court of law in order to get relief from the court for the invasion of his Fundamental Rights. That was too much of a *burden on the common citizen.* And, therefore, the Constitution enacted another article, which is article 372, sub-clause (2), which gives power to the Government to make modification and adaptation in existing laws in order that the laws may be brought in conformity with the Fundamental Rights.

If my hon. Friend will allow me to make a personal reference, I would say that when I was in charge of law, I immediately took up this queston about adaptation and modification of the existing law in order to bring it in conformity with the Fundamental Rights. And I did succeed in getting repealed one of the most important pieces of legislation in the Punjab, called the Punjab Land Alienation Act, under which certain communities, or as the law speaks of them, certain tribes, were declared to be the only tribes which could hold property or acquire property in the Punjab. The law, in my judgement, was so iniquitous that a man who was actually an agriculturist, but whose community or tribe was not declared by the Government to be an agricultural tribe, was not entitled to get any land. But a person who was a barrister all his life, and never hoped to grow even two blades in a field, became entitled to acquire property, because the Government had chosen to declare his tribe to be an agricultural tribe. I succeeded in having the whole Act cancelled under the provisions of article 372, clause (2). There

remained another law or a custom which went along with the Punjab Land Alienation Act, and which referred to what is called the *shamilat* land, that is to say, the land held in common by the villagers. Under the customary Punjab law, the *shamilat* land could be shared only by those communities which were called zamindars, hereditary land-owning communities. The others were non-zamindars. They were called *kaminas,* that is to say, they belonged to a low class, and they were not entitled to share in the land. Consequently, they could not build their houses in a *pucca* form on the land on which they stayed. They are always afraid lest the zamindars of Punjab may, at any time, turn them out. And the people did not venture to build permanently. I left a note in the Law Ministry, when I left, that this matter should be taken up and dealt with by the *Government under the* provisions of article 372, sub-clause (2). I have no idea what the Law Ministry has done or what the Home Ministry has done. I believe, no action has been taken on that account so far. I had, for my own guidance; made a list of certain laws, which I felt it was absolutely essential to modify in order to bring them in conformity with the Constitution. The first that I would like to mention is Madras Regulation XI of 1816. This is a criminal law enacted by the East India Company. In that, there is a provision, I think, section 10, which says that if the offender belongs to the lower classes, then the punishment to be inflicted on him is to put him in the stocks. This punishment is not to be inflicted if the offender belongs to the higher classes. There can be no question, Sir, that this Regulation is a discriminatory Regulation, and should be repealed. Then the next item that I would refer to is the Bombay Municipal Servants Act V of 1890. Under that Act, it is provided—I think it is section 3—that if a municipal servant, whose duties fall within the Schedule attached to the Act, absents himself from work without permission, or resigns his office without at least giving three months' notice in writing, he shall be sentenced to imprisonment. It is a well-established principle now that a contract of employment is only a civil contract for which, if there is to be any punishment that punishment must be only damages and not imprisonment.

But this Municipal Law still remains on the Statute Book. The result has been that under this Act—if my hon. friend will refer to the Schedule, he will find that the Schedule practically mentions, although in terms of duty, people who are doing scavenging work or street-cleaning work, and things *of* that sort, and who *are* mostly Scheduled Castes or the untouchables—it has become quite impossible for them even to go on strike, because the terms of resignation must be three months' notice. Nothing has been done so far as that Act is concerned. I will take now another item, the U. P. Municipalities Act, II of 1916. I think it is section 85. Yes. There again, the provisions of that section are more or less similar to the provisions of the Bombay Municipal Servants Act. There again it is said that a sweeper employed by a Board who, except in accordance with the terms of a written contract of service, or without a reasonable cause, of which notice has been given, resigns or abandons his employment, shall be liable upon conviction, to imprisonment which may extend to two months. I think these laws, if I may say so, are absolutely uncivilised laws. No country in the world today regards breach of contract of service as an offence punishable with imprisonment or with fine. It is just damaging, but nothing has been done here.

Then, I will refer to three other Acts, one is the Bombay Herediatary Village Officers Act of 1874. Those who work or officiate under this Act are divided into two classes. My friend, Mr. Dhage, must be quite familiar with it, although the Home Minister himself may not be. I do not know what the system is in his province, but there the servants are divided into two classes, one class are called officers and the other are called village servants, although both are paid in the ancient form of payment, *viz.,* land assigned for service out of which they have to eke out their income. The land that has been assigned to them was in ancient times, probably during the time of Shivaji or during the time of the Peshwas. No addition has been made to the land then assigned. They have been cutting up and sharing their land into bits and bits, and probably no one individual owns more than one-hunredth of an acre of land, yet these poor people are sticking to that land. Now,

when the British came in they started a scheme of what is called commutation that is to say, releasing a person from the obligation of hereditary service and allowing him to retain the land provided he was prepared to pay what is called 'Judi' or land revenue, as the Government thought fit. That process has been going on for ever and many, many hereditary officers have been liquidated so far. Recently the Bombay Government took up on itself the responsibility of further commuting these village hereditary officers, but notwithstanding the incessant demand of the scheduled castes in the Bombay State that their workers and their hereditary officers should also be commuted so that they may be free from the obligation of service and be allowed to retain the land on payment of land revenue—they were very liberal and wanted to pay the full land revenue and did not want any concessions—the Bombay Government refused their requests. They confine their law to the commutation of officers other than the scheduled castes. This—I speak from experience—is one of the most cruellest pieces of legislation, because it is quite possible for the village who is an officer under this Act to require the whole body of the scheduled caste people to go and serve under him not merely for Government purposes but also for his private purposes. Any village *patel,* for instance, if there is a death in the family, would not sent a postcard to his relatives informing them of the death in the family, because it is a derogatory method. He must insist upon one of his village servants, as they are called, to walk miles and miles to convey the message that a death has occurred in the house of the *patel*. If a married girl comes to the house of the *patel* and wishes to go back, he must insist upon one or two of the village servants to go along with her, accompany her, chaperon her, and to see that she has safely arrived at her father-in-law's house. If a marriage takes place, he must insist on the whole of people to go and break wood and do all services without paying them anything. If they refuse, he is competent to report to the Collector that his village servants are not doing their duty, and the Collector under the Act is able to fine them or to take away their land and dispossess them. I wonder whether this is not a piece of legislation which is fundamentally

opposed to the Fundamental Rights in the Constitution, and whether such a piece of legislation does not require modification at the hands of the Law Department or the Home Department.

There are two other Acts which are, so to say, correlative to this Bombay Hereditary Village Officers Act. One is the Bombay Revenue Jurisdiction Act, and the other is the Pensions Act. *(Seeing the Home Minister rising from his seat)* My hon. Friend finds it too hot perhaps.

Dr. K. N. Katju : I find it too cool on the other hand.

Dr. B. R. Ambedkar : It will be hotter as I go on.

Both these Acts prevent access to the judiciary for any wrong that may have been done by the officers, the Director, or the Commissioner or the Minister. No relief can be had from the courts, because the Revenue Jurisdiction Act says that the courts shall not have any jurisdiction either to alter or to modify or to revise the decision of the Collector, who is an executive officer. The Pension Act says that no one who has any kind of *inam* shall be entitled to go to court and the court shall not exercise any jurisdiction unless it obtains a certificate from the Collector that the case may be tried by the court. It is quite impossible, therefore, for these poor people to have any kind of remedy against the many injustices which are being practised under the name of this particular Act. If I had remained as Law Minister, it was my intention to carry out these reforms, but I think it is the duty of any Law Minister and particularly of the Home Minister to look into our laws and to find out to what extent the laws are in conflict with the Fundamental Rights. I am sorry to say, Sir, that both these departments are the most laziest departments that I have ever seen. They have neither the zeal nor the urge or the conscience to move in this matter. They have no idealism either. I hope that, after what I have said, they will be spurred to some kind of action in this matter and to see that relief is given where relief seems necessary. Well, Sir, this is what I wanted to say by way of preliminary observations. I will now turn to the Bill itself.

I would like to say a word about the title of the Bill. It is not a very important point, but I think the name does matter. Shakespeare has said that rose smells as sweet whether it is called rose or by some other name. I disagree with that statement of Shakespeare. I think that name is a very important matter, and I think that a good law ought to have a good and succinct name. What is the name of this Bill ? 'A bill to provide punishment for the practice of untouchability or the enforcement of any disability arising therefrom'. I personally think that it is a very clumsy name and very mouthful. What really should be the name of the Bill may be a matter of dispute but I personally think that it ought to have been called 'The Civil Rights (Untouchables) Protection Act' After all, what you are doing is nothing more than protecting their civil rights. The emphasis ought to have been therefore on civil rights. I venture to tell my friend incharge of the Bill if he had referred to the case of the Negroes in the United States or to the Civil War, he would have found that the Bill that he is now proposing to be passed by Parliament has had its predecessor in the United States and that Bill, if he will refer to it he will find, is simply styled Civil Rights Protection Bill. Even the word 'negro' is not mentioned in it. I don't know why he should keep on repeating untouchability and untouchables all the time. In the body of the Bill he is often speaking of scheduled castes. The Constitution speaks of the scheduled castes and I don't know why he should fight shy of using the word scheduled castes in the title of the Bill itself. Personally for myself, I would be quite happy with the name Untouchables Civil Rights Protection Bill or Scheduled Castes Civil Rights Protection Bill. I hope my friend will take this into consideration.

3-00 P.M.

Now, Sir, I find there are certain very grave omissions in the Bill and it is to these ommissions that I propose to draw the attention of the House. There is really, as a matter of fact, no provision for the removal of any bar against the exercise of civil and constitutional rights. No doubt the ultimate result of the Bill would be freedom to exercise civil and constitutional rights but I personally think that it would

have been much better if my friend had expressly stated that the Bill was intended to remove any kind of a bar against the exercise of any civil and constitutional rights. I would just like to read to him a provision from the Civil Rights Bill as they call it in the United States. This is how the provision reads. Don't read the title page of the book—it will hurt you. It is the United States Constitution Amendment XIV taken from Government of Ireland Act, 1920 and also Professor Keith's Command Paper. This is how that provision reads. I have of course converted it to make it applicable to the untouchables but the original is taken from the text of the Civil Rights Bill :

> "All subjects of the State are equal before the law and possess equal civil rights. Any existing enactment, regulation, order, customs or interpretation of law by which any penalty, disadvantage, disability is imposed upon or any discrimination is made against any subject of the State on account of untouchablity, shall, as from the day on which this Constitution comes into operation, cease to have any effect".

I think such a positive statement was necessary. It is no doubt contained in article 13 but there can be no harm in repeating the whole of that article 13 with such amendments as are necessary in this Bill. I don't know why the Bill is silent. The Bill seems to give the appearance that it is a Bill of a very minor character, just a *dhoby* not washing the cloth, just a barber not shaving or just a *mithaiwala* not selling *laddus* and things of that sort. People would think that these are trifles and piffles and why has Parliament hothered and wasted its time in dealing with *dhobies* and barbers and *ladduwalas*. It is not a Bill of that sort. It is a Bill which is intended to give protection with regard to civil and fundamental rights and therefore, a positive clause, I submit, ought to have been introduced in this Bill, which the Bill does not have now in its present form. That is one ommission which I think requires to be made good. The other omission, which, I find, is of a very grave character, is that there is no provision against social boycott. Now I feel from my experience that one of the greatest and the heinous means which the village community applies in order to prevent the scheduled castes from exercising these rights is social boycott. They boycott

them completely. It is a kind of non-co-operation. This is not merely my opinion but it is the opinion of a Committee that was appointed by the Bombay Government in order to investigate into the conditions of the scheduled castes and also of the depressed classes and aboriginal tribes. I might mention to the House that the late Thakkar Bapa was a member of this Committee and he had signed this report. I will just read only, one para from the report of that Committee which relates to the question of social boycott. It is paragraph 102. This is what the Committee said :

> "Although we have recommended various remedies to secure to the depressed classes their rights to all public utilities, we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the scheduled castes form a small minority in every village opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion of the depressed classes at any cost. The danger of prosecution by the police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare. The second difficulty arises from the economic position in which the depressed classes are found today. The depressed classes have no economic independence in most parts of the presidency. Some cultivate the land of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes, and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those depressed classes in the villages when the latter have dared to exercise these rights and have evicted them from their land and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the depressed classes from using the commonly used paths and the stoppage of the sale of the necessaries of life by the village *bania*. According to the evidence, sometimes small causes suffice for the proclamation of a social boycott against the depressed classes. Frequently it follows on the exercise by the depressed classes of their right to the use of the common well; but cases have been by no means rare where stringent boycot has been proclaimed simply because a depressed class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with the bridegroom on the horse through the public street. We do not know

of any weapon more effective than this social boycott which could have been invented for supression of the depressed classes. The method of open violence pales away before it, for it has the most far-reaching and deadening effect. It is more dangerous because it passes as a lawful method consistent with the theory of freedom of. contract. We agree that this tyranny of the majority must be put down with a firm hand if we are to guarantee the depressed classes the freedom of speech and action necessary for their uplift."

This is the conclusion of a committee which was specially appointed to consider the condition of the scheduled castes. I do not find any provision to deal with this point of social boycott.

I may draw the attention of the hon. Member to the Burma Anti-boycott Act of 1922, if he thinks that it is difficult to put the matter in express words which can be legally of use to the courts. I say he can copy the provisions contained in this Burma Anti-bycott Act of 1922. It gives us the most valuable definition of a difficult matter, namely, social boycott. That will be found in section 2 of that. Act. This Burma Act not only creates social boycott an offence, but it also creates the instigating of social boycott an offence. It also creates the threatening of social boycott an offence, in pharaseology as' precise as any meticulous lawyer would want to have. My hon. Friend has tried, I think, in sub-section (2) of section 8, to have some kind of a garbled version of it for defending a Hindu who does not wish to practise untouchability but whose caste-fellows compel him to do so. I believe they can only do that in two ways, either by committing violence against him or by organising social boycott. As the Committee has said, the village communities most often prefer the social boycott because it is an act behind the curtain and appears to be perfectly in consonance with the terms of the law of contracts, to violence which, as I have said, becomes an offence under the Indian Penal Code. Therefore, instead' of going round about and bringing about a haphazard result, why not proceed directly and recognise social boycott as an unlawful means of compelling the scheduled castes not to exercise their rights ? After all, what can be the objection to social boycott ? I say, in legal terms, social boycott is nothing else than a conspiracy, which is an offence recognised by the Indian Penal

Code. If two people engage themselves in doing a wrong to a third person, well, that is conspiracy, This social boycott is brought about by the concurrence of the majority of the people and is also a conspiracy and could be recognised as an offence. I do not know why my hon. friend forgot that very important fact in this matter.

The third omission—I do not know whether it is an omission or not, I speak subject to correction. I wish the Law Minister was here because it is purely a legal matter. But there is no doubt about it that our Home Minister was a Law Minister in the beginning and certainly has been a practising lawyer and he could not be unfamiliar with what I am saying. Now the question that I ask myself is, are these offences mentioned in this Bill compoundable or non-compoundable ? The Bill says nothing about it. It is completely silent. The other day when we were discussing the Report of the Commissioner for the Scheduled Castes and Scheduled Tribes, hon. Members will recall that the Commissioner drew pointed attention to the fact that the untouchables were not able to prosecute then persecutors because of want of economic and financial means and consequently they .were ever ready to compromise with the offenders whenever the offenders wanted that the offence should be compromised. The fact was that the law remained a dead letter and those in whose favour it was enacted are unable to put it in action and those against whom it is to be put in action are able to silence the victim. That has been the conclusion of the Commissioner for Scheduled Castes and Scheduled Tribes. Such a situation is not to be tolerated. The offences must not be made compoundable if the offence is to be brought home to the guilty party. If the guilty parties by compounding the offence either by payment of a small sum or something like that are able to get away they can continue their career of harassment of the untouchables until the moon and the sun are there and untouchability would never end.

Therefore, compounding of the offence is a grave matter and a grave issue and it must have been expressly dealt with. I do not know what the intention of my hon. friend is but in order that we may be able to judge by reference to other provisions in other laws, I shall refer to section 345 of the

Criminal Procedure Code which defines what offences are compoundable and what offences are non-compoundable. My hon. friend will remember that there are altogether 511 sections in the Indian panel code, of them, 108 are taken up with purely declaratory matters, punishments, where the law would apply, general exceptions to the law, costs and so on and so forth. So, we shall cancel or deduct 106 out of 511. The sections which actually define offences are grossly about 400. Four hundred offences, acts and omissions are made offences by the Indian Penal Code. Out of this 400, how many are compoundable ? That is a matter which we must consider because under that lies the principle which is of importance. As I said, the only provision which defines what offences are compoundable or not is section 345 of the Criminal Procedure Code. I have made a little calculation—I am rather weak in mathematics but I believe I cannot be very far wrong in saying—that only 44 offences are compoundable out of the 400. The rest are non-compoundable. From this position, I deduce the conclusion that the principle of the criminal law is that an offence shall ordinarily not be compoundable and that these 44 are merely exceptions to the general rule. Out of the 44, 24 are compoundable without the permission of the magistrate and 20 are compoundable with the permission of the magistrate. So, really speaking, only 24 are compoundable offences. Now, are these offences indicated in this Bill compundable or not ? The Bill itself does not say so. I think there ought to be an express provision to this effect that any offence under this Bill, shall be non-compoundable. If my hon. friend does not propose to accept this suggestion, what would be the result ? The result would be this, that most of these offences will be offences in which hurt or grievous hurt would be caused. They could not be mere offences of show of force or anything less than that; they would be offences involving hurt, grievous hurt, *violence* and things of that sort. Now, if a magistrate were to apply sub-sections (*1*) or (*2*) of section 345—I do not want to weary my hon. friend by reading the two sub-sections of section 345 which define offences of this sort—he will find that the offences involve hurt. He will also see that a large majority of them which are made compoundable

either with the permission of the magistrate or without the permission of the magistrate are offences which involve hurt, grievous hurt, confinement of a person or kidnapping his relation or something like that. All of them are compoundable, absolutly, every one of them. Therefore, it follows that unless you make a. specific and express provision in this Bill, all the offences, if they involve social boycott—this is not mentioned in the Penal Code at all and it is not an offence except conspiracy—and such other acts which involve hurt or violence, so far as section 345 is concerned, will become compoundable and the Bill will be reduced to a complete nullity. It would be a farce. Therefore, my hon. Friend will look into this matter and see—he would be entitled, of course, to take the advice of the Law Ministry—whether within the terms of section 345 of the Criminal Procedure Code these offences would be compoundable, and if so, whether it is not necessary to make an express provision in this Bill to say that offences involving untouchability shall not be regarded as compoundable.

Now, Sir, I come to the question of certain defective provisions. I have said about omissions and I want to say something about the defective provisions. The first such provision to which I shall refer is the clause relating to punishment, which is clause 8. The punishment prescribed in the Bill is six months' imprisonment or fine which may extend to Rs. 500 or both. My hon. Friend was very eloquent on the question of punishment. He said that the punishment ought to be very very light and I was wondering whether he was pleading for a lighter punishment because he himself wanted to commit these offences. He said, "Let the punishment be very light so that no grievance shall be left in the heart of the offender". I suppose his primary premise is that the offenders who offend the untouchables are really very kindly people, overwhelming with love and kindness and that this is merely an errant act which really ought to be forgiven. It is a matter of great solace to me that he has not prescribed the punishment of being warned and then discharged. That I think would be the best section 561 of the Criminal Procedure Code. Yes, that would be the best; if our object is

to make the offender a loving person; well, let him be warned and discharged. He will continue to love and no soreness will remain in his heart. Why should he have that ? Unfortunately, my hon. friend has thought that that could not be and therefore, he has suggested this punishment.

Now, Sir, having had a little practice in criminal law, I think the rules on which punishment is based are two mainly. One is to deter the offender from repeating his offence. That, I think, is the primary rule of criminal jurisprudence. Punishment is necessary; otherwise the offender may go on repeating his offence. It is to prevent him that there must be a punishment. The second object of punishment is to prevent a man from adopting a criminal career. If a man once begins a criminal career then he may continue to do so unless there is some deterrent punishment to prevent him from adopting that career.

Now, Sir, if you accept these two principles, is the punishment proposed by my hon. friend adequate for the purpose of the Bill ? In the first place the six months' imprisonment is really the maximum and a magistrate may only inflict one day's imprisonment and let the man be off. There is no minimum fixed that the imprisonment shall not be less than six months or three months or whatever it is. The whole matter is left in the hands of the magistrate. What sort of a magistrate he may be, it may be quite possible and I can quite imagine that he may be a Pandit from Kashi sitting in judgement in the magistrate's chair. What conscience would he have in the matter of administering this law?

Shri Basappa Shetty (Mysore) **:** Kashi or Kashmir ?

Dr. B. R. Ambedkar : Oh, Kashmir Brahmins are not true Brahmins, I understand. They are meat *khao, machli khao,* as they say. Therefore they are not Brahmins.

Now, as I said, in this case if you want to see that the law is observed, there ought to have been a minimum punishment below which the magistrate could not go. Secondly the punishment is alternative, imprisonment or fine. The magistrate may very well inflict the alternative punishment

of fine and there might be an offender who might be prepared even to pay the five hundred rupees in order to escape the clutches of the law. What good can such punishment do ? The Indian Penal Code prescribes a variety of punishments, a variety of them in section 53 : death, transportation, imprisonment, forfeiture of property, fine, whipping, detention in reformatory. There are seven offences for which the Penal Code fixes death penalty; for 50 offences the punishment is transportation; for 21 offences—simple imprisonment; for 12 offences—fine. In all other cases the imprisonment is rigorous. Why my friend has thought so little of this Bill as not to prescribe adequate punishment, it is very difficult for me to understand, I mean, the least that one can expect from him is to prescribe a minimum, may be three months, it does not matter, a minimum of three months' imprisonment and fine if he wants to fix fine—I am not for inflicting a fine because that only benefits the treasury, but if you say that the fine will go to the victim, I am for fine also. Otherwise I do not want fine.

Shri B. B. Sharma (Uttar Pradesh) **:** Why not the maximum penalty of death ?

Dr. B. R. Ambedkar : Well, if you like it, have it—I am not so cruel as that and I do not think you are sincere in suggesting it, and, as I said, there are not cases in the Indian Penal Code where minimum punishment has not been prescribed or rigorous imprisonment has not been prescribed. There are three sections here which prescribe rigorous imprisonment, sections 194,226 and 449. Then the Penal Code has prescribed the minimum period of imprisonment in sections 397 and 398. I do not see why, when there is the precedent, the precedent should not be .....

Dr. K. N. Katju : What is 397 ?

Dr. B. R. Ambedkar : Dacoity. That is worse than dacoity. I think, to starve a man and not to allow him to take water, I think, it is almost causing death. That is, I think, one drawback in the Bill. Then, Sir, the second drawback in the Bill is that there is no provision for taking security for good behaviour. The Criminal Procedure Code has got four sections,

sections 107, 108, 109 and 110, and they all enable the magistrate to demand security for good behaviour. I don't understand why this Bill should not contain a provision to that effect. When for instance we find in Rajputana and other States the caste Hindus are agitating to harass the untouchables because they exercise civil and constitutional rights, why should you not take security for good behaviopur ?

Shri J. S. Bisht (Uttar Pradesh) **:** These are all the provisions in the Criminal Procedure Code.

Dr. B. R. Ambedkar : That is what exactly I am saying, that there is a precedent in the Criminal Procedure Code for taking security from persons who do not keep peace, for good behaviour, from persons disseminating seditious matter, from vagrants and from habitual offenders, for good behaviour. I am not certain that these provisions could be invoked for the purpose of taking security from persons offending against this law. It may be that specific provision dealing with the cases dealt with in this Bill has to be made, and that can only be made by a specific provision in this Bill.

Then, Sir, there is another provision which finds a place in the Indian Police Act. Section 15 of the Act, under which when some people in the village or the villagers as a whole disturb the peace, the Government can quarter upon them additional police and recover the cost of the additional police from the inhabitants of that village. That is a general provision. I am not sure again whether that provision could be invoked by the Government for the purpose of enforcing this Act. That Act is a general Act, disturbance of peace and so on and so forth. This is quite a different case and I should have thought that a specific clause on the lines of section 15 of the Police Act should have found a place in this Bill if outlawing of untouchability is intended to be an effective thing. But that again is not there.

Now, Sir, I come to another question about which I certainly feel a certain amount of doubt. Who is to administer this law, the Centre or the States ? And if the Centre is to administer the law, is it not better that this Bill should contain a clause to that effect, that it shall be administered by the Central

Government ? I make this suggestion because I feel that the States might raise an objection that this is a concurrent piece of legislation and being a concurrent piece of legislation the States have the right ordinarily to administer these Acts. I do not think that this is a concurrent piece of legislation in which the States can claim to have a right to administer.

I claim that this is a Central law although it does not fall in List I of the Seventh Schedule. The provisions contained in article 35 are quite clear. It has been stated in article 35 that any law to be made for inflicting punishment for any infringement of a law made in pursuance of article 17 shall be by Parliament and not by the State. Those are the very express words. Therefore there can be no doubt in my mind that this law will have to be by virtue of the Constitution administered by the Centre and not by the States. I say this because my hon. friend might be saying that since we have made the offences under this Act cognisable, it does not matter if the law is administered by the States but that argument cannot stand at all in virtue of article 35 and I would suggest to him that he should introduce an express provision in the Bill that the Law shall be administered by the Centre. If my friend's contention or the contention of the States is that this is also a concurrent piece of legislation, I would like to draw his attention to the proviso to article 73 which is a very important one and which relates to the administration of laws in the concurrent field. My hon. friend will remember that in the scheme of things in the Government of India Act of 1935 we had the same kind of classification of subjects—List I—Central subject, List II—State subject, and List III—Concurrent subject, but the Government of India Act contained an express provision that the power of the Centre to make law in the concurrent field was confined merely to lawmaking. It could not encroach upon the field of administration. The reasons why such a provision was made in the Government of India Act, 1935, are quite irrelevant to the times in which we find ourselves now, but when we made the Constitution we refused to accept such a provision. We said that although generally the Centre may leave a law in this concurrent field

for administration to the States the choice must be given to the Centre to determine whether any particular law in the" concurrent field made by it shall be administered by it and not by the States. That intention has been carried out in the proviso to article 73. We said that if the Centre so determines that the law made in the concurrent field shall be administered by the Centre then the States cannot interfere in the matter at all. Therefore, I am strongly of the opinion that this contention is invalid.

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CONSTITUTION (FOURTH AMENDMENT) BILL, 1954

***Dr. B. R. Ambedkar** (Bombay) **:** Mr. Chairman, those who are familiar with the British Parliamentary system will know that there is a dogma in the working of the British Constitution that all parties in England accept. That dogma is that the King can do no wrong. If any wrong is done in the working of the Constitution, the person responsible for the wrong is the Prime Minister and his colleagues. But the King can never be wrong and can never do wrong. We too in this country have adopted practically, with slight modifications, the British Constitution. But unfortunately the working of our Constitution is governed by a dogma, which is just the opposite of the dogma adopted by the British people. In our country the dogma on which we proceed is that the Prime Minister can do no wrong and that he will do no wrong. Therefore, anything that the Prime Minister proposes to do must be accepted as correct and without question. This devotion in politics to a personality may be excusable in some cases, but it does not seem to me excusable where the fundamental rights are being invaded. The fundamental rights are the very basis of the preamble to the Constitution. The Preamble says that this Constitution will have as its basis liberty, equality and fraternity. These objectives of the Constitution are carried out by the fundamental rights. And it is, therefore, the duty, I should have thought, of every Member of Parliament, apart from personal loyalty, to be critical when any invasion is made of the fundamental rights. Unfortunately, one does not find this kind of critical attitude. The history of fundamental rights in this country is very interesting. In olden times under the Hindu kings there were fundamental rights only for two—the Brahmin and the cow—

* P. D., Vol. 9-B, 19th March 1955, pp. 2446-66.

and the Puranas described the king as "*Go Brahmana Pratipalaka*." That was the duty of a king; whether the other sections of his subjects received any consideration at his hands or not, or whether animals other than the 'Go' had any consideration was a matter of no moment at all. So long as the Brahmin and the cow were protected, the king was destined to go to heaven.

When the Muslims came, they took away these fundamental rights which the Hindu kings had granted to the Brahmin and the cow. The cow unfortunately not only lost its rights to live, but became the victim of everybody. So was the case of the Brahmin. What the Muslims did was to give privileges to the Mussalman and no rights to the non-Muslims. After the Muslim rule ended in this country, there came upon us the rule of the British. Anyone who examines the various Government of India Acts passed from 1772 to 1935 will find that there were no such thing as fundamental rights in any of the Government of India Acts that were passed by Parliament for the administration of this country. It is in 1947 or so when Swaraj became a fact in this country that this idea of fundamental rights emerged. It is our Constitution which for the first time contains the embodiment of what are called fundamental rights. It is a very strange thing that although the foreigners were ruling in this country, namely the British, no one ever agitated for the enactment of the fundamental rights. The Congress was in existence from 1886. Let anyone examine the annual resolutions passed by the Congress. They never asked for any fundamental rights.

Babu Gopinath Singh (Uttar pradesh) **:** Did you read the Karachi Congress Resolution of 1931.

Dr. B. R. Ambedkar : Well, I have no idea about that. They said that they would have fundamental rights when they enact a Constitution. I am coming to that now, it is as I say a very strange commentary that no Indian—and the Indians who ran the Congress in the earliest times were intellectual giants: they were not ordinary people, they were most learned, they were wide awake—not one of them to my knowledge asked for any fundamental rights. But as soon as

Swaraj came, there was a demand for fundamental rights. It is a matter worth consideration why this happened ? Various people would no doubt give various replies, but my reply is very simple. My reply is very simple. My reply is this—the reason why Indians did not demand fundamental rights when the British were here is this. Although the British had their imperialism as one aspect of their rule, there cannot be any doubt that the administration of this country was governed by what was called the rule of justice, equity and good conscience. Sir, I remember, at least speaking for my own province, how independent was the judiciary which wholly consisted of Europeans. How independent it was of the executive. I remember a case .....

Dewan Chaman Lall (Punjab) **:** Is it Tilak's case ?

Dr. B, R. Ambedkar : It is a very famous one, the case of a Mr. Justice Knight who was the Chief Justice of the Bombay High Court during the time of the East India Company. He had issued a writ against the Government of Bombay and the Government of Bombay refused to obey. They said that the Chief Justice of the Bombay High Court had no right to issue a writ against the Executive. When they informed him that they were not going to carry out that particular writ, what did Mr. Knight do ? He called the Chaprassi and said : "Bring the keys of the High Court", and he asked him to lock up every room of the High Court, including his own, and next day booked a passage for himself and went back to London, saying: "If you are not going to obey my orders as the Chief Justice of the Bombay High Court, you will have no High Court, at all." Subsequently, of course, his order was reversed by the Privy Council. But that is no matter at all. The point is that the British administered this country in a manner in which everybody felt that there was some sense of security. That is the reason why, in my judgement, nobody in this country clamoured for fundamental rights. But as soon as Swaraj presented itself, everybody thought—at least many of the minorities thought—that there was the prospect of political authority passing into the hands of a majority, which did not possess what might constitutionally

be called constitutional morality. Their official doctrine was inequality of classes. Though there is inequality in every community, or whatever be the word, that inequality is a matter of practice. It is not an official dogma. But with a majority in this country, inequality, as embodied in their *Chaturvarana* is an official doctrine. Secondly, their caste system is a sword of political and administrative discrimination. The result was that the fundamental rights became inevitable. What I found—and I know this thing more than probably many do, because I had something, to do with it—was that the Congress Party was so jubilant over the fundamental rights. They wanted fundamental rights, and they thought that fundamental rights were so necessary that if the Indian people had a constitution which did not embody fundamental rights, they would appear nude to the world. That was the reason why they clamoured for fundamental rights. In the proceedings of the Constituent Assembly, I do not find a single Member who stood up and said "We do not want fundamental rights." Fundamental rights were regarded as a kind of an ornament which the Indian people must have. Today, their attitude has undergone a complete change. Today, they look upon the fundamental rights as an iron chain which ought to be broken, whenever occasion arose for breaking it. This, I find, is a fundamental change. I am sorry to say that this attitude of treating the fundamental rights with contempt, as though they were of no consequence, that they could be trodden upon at any time with the convenience of the majority or the wishes of a Party chief, is an attitude that may easily lead to some dangerous consequences in the future. And I therefore feel very sorry that even a matter of this sort, namely, the infringement of, or the deviation from, fundamental rights, is being treated by the Party in power as though it was a matter of no moment at all.

It seems to be suggested that those who made the Constitution had no sense, that fundamental rights must be elastic, that they must leave enough room for progressive changes. I must, Sir, as the Chairman of the Drafting Committee, repudiate any such suggestion. Any one, who reads the fundamental rights as they are enacted in the

Constitution, will find that every fundamental right has got an exception. It says: Notwithstanding anything contained, the State may impose reasonable restrictions on them. We were quite aware of the fact that fundamental rights could not be rigid, that there must be elasticity. And we had provided enough elasticity.

Article 31, with which we are dealing now in this amending Bill, is an article for which I, and the Drafting Committee, can take no responsibility whatsoever. We do not take any responsibility for that. That is not our draft. The result was that the Congress Party, at the time when Article 31 was being framed, was so divided within itself that we did not know what to do, what to put and what not to put. There were three sections in the Congress party. One section was led by Sardar Vallabhbhai Patel, who stood for full compensation, full compensation in the sense in which full compensation is enacted in our Land Acquisition Act, namely, market price plus 15 per cent. solatium. That was his point of view. Our Prime Minister was against compensation. Our friend, Mr. Pant, who is here now—and I am glad to see him here—had conceived his Zamindari Abolition Bill before the Constitution was being actually framed. He wanted a very safe delivery for his baby. So he had his own proposition. There was thus this tripartite struggle, and we left the matter to them to decide in any way they liked. And they merely embodied what their decision was in article 31. This Article 31, in my judgement, is a very ugly thing, something which I do not like to look at. If I may say so, and I say it with a certain amount of pride the Constitution which has been given to this country is a wonderful document. It has been said so not by myself, but by many people, many other students of the Constitution. It is the simplest and the easiest. Many, many publishers have written to me asking me to write a commentary on the Constitution, promising a good sum. But I have always told them that to write a commentary on this Constitution is to admit that the Constitution is a bad one and an un-understandable one. It is not so. Anyone who can follow English can understand the Constitution. No commentary is necessary.

Dr. Anup Singh (Punjab) **:** Last time when you spoke, you said that you would burn the Constitution.

Dr. B. R. Ambedkar : Do you want a reply to that ? I would give it to you right here.

My friend says that the last time when I spoke, I said that I wanted to burn the Constitution. Well, in a hurry I did not explain the reason. Now that my friend has given me the opportunity, I think I shall give the reason. The reason is this : We built a temple for a god to come in and reside, but before the god could be installed, if the devil had taken possession of it, what else could we do except destroy the temple ? We did not intend that it should be occupied by the *Asuras*. We intended it to be occupied by the devas. That is the reason why I said I would rather like to burn it.

Shri B. K. P. Sinha (Bihar) : Destroy the devil rather than the temple.

Dr. B. R. Ambedkar : You cannot do it. We have not got the strength. If you will read the Brahmana, the Sathapatha Brahmana, you will see that the gods have always been defeated by the *Asuras,* and that the *Asuras* had the *Amrit* with them which the gods had to take away in order to survive in the battle. Now, Sir, I am being interrupted ……..

Mr. Chairman: You are being drawn into ……..

Dr. B. R. Ambedkar : ……. into all sorts of things into which I do not wish to enter.

I was saying that Article 31 was an article for which we were not responsible. Even then, we have made that article as elastic as we possibly could in the matter of compensation. If members of the House will refer to entry 42 of the Concurrent List, and compare it with Section 299 of the Government of India Act, 1935, they will find how elastic has been the provision made by the drafting Committee. Section 299 of the Government of India Act which governed the question of compensation described the following ingredients. One was that there must be full compensation by which they, *no* doubt, meant compensation *in* accordance with the terms of the Land Acquisition Act. Secondly, it said that compensation

must be paid and paid in cash before possession could be taken. That was the provision in the Government of India Act, 1935. Look at the provision that we have made in entry 42 of the Concurrent List, by which I hope members will understand that the authority to determine compensation is given to both the State Legislatures as well as to Parliament, and the reason why we did this was simple. It was this : we thought that, if compensation was distributed in List I and List II, so that the Centre might be free to fix compensation for such acquisition as it might make, and the provinces or the States might fix such compensation as they might think fit, it would result in utter choas in this country and that there must be some sort of uniformity in this. Therefore, while giving authority to the States to lay down rules of compensation, we also gave authority to Parliament so that Parliament might enact a general law which would be applicable to the whole of India and which might supersede any State law which might be inequitous. That was the reason why we put it in the Concurrent List. What is the provision we have made ? We have said that it is not necessary that Government should actually pay compensation to acquire possession of property. We have not said that. We have said "compensation to be given" and not "paid" so that it is open to the Government at the Centre as well as in the States to acquire property without actually paying compensation.

The second distinction that we have made between section 299 of the Government of India Act, 1935 and entry 42 is that compensation may be in any form, that either Parliament or the State Legislature might decide by law to give compensation in the form of paper bonds, cash certificates or whatever they liked to give, or that they might pay it in cash if they liked it. We have also said that, although Parliament may not actually fix compensation, it may merely lay down the rules for compensation, so that, if a law was passed which did not contain a clause specifically saying what should be the compensation but merely laid down the rules and principles, that was enough for Government to take possession of the property and acquire it. Now, Sir, I would like to ask the Members of this House if they can point out any

Constitution where the procedure for acquiring property is so easy as it is in our Constitution. Can anyone point out to me that there is some other Constitution which enables the Government with greater facility to acquire property for public purposes ? Now, with all this facility, is there any necessity for the Government to come out with a proposition that there are cases where they shall not give compensation ?They need not cast the whole burden, the entire burden, on the present generation. They are not asked to say that the bonds that they might issue must be redeemable. They may make them irredeemable. All that they need do is to give some interest on the bond as every borrower agrees to do and as every creditor gets. Why at all even the most hasty socialist should say, "well, we shall not pay compensation;", I do not understand. There are in my judgement three cases or three paths that one might follow. The first path would be full compensation; the second, no compensation; and the third, compensation as determined by law. I am quite in agreement with those who think that it is not possible to accept full compensation in terms of the Land Acquisition Act. I am quite in agreement with that; if by full compensation is meant compensation as determined by the rules now prescribed by the Land Acquisition Act, I am quite prepared to side with the Government and say that that is an impossible proposition which we need not accept. I might at this stage draw the attention of the House to the fact that we are not the only people who are bringing about socialism. What socialism means, nobody is able to say. That is the socialism of the Prime Minister, which he himself said that he cannot define. There is the socialism of the Praja Socialist Party; they don't know what it is. And even the Communists……

Shri S. N. Dwivedy (Orissa)**:** You don't know either.

Dr. B. R. Ambedkar: I am not a socialist.

Shri S. N. Dwivedy: You want to criticise without knowing what it is.

Mr. Chairman: Order, order, you may go on.

Dr. B. R. Ambedkar: Even the Communists say that theirs is socialism and I want to know why they call themselves Communists if they are only Socialists. It would lose all the terrors which the word 'Communism' has for many people and they might easily have won a victory in Andhra if they had made a change in name. What I wanted to tell my friend Mr. Pant is—I hope he is listening to me……..

Mr. Chairman: Of course he is listening with the greatest attention.

Dr. B. R. Ambedkar: What I wanted to tell him was this, that this is quite interesting. Anyone who has studied the legislative programme of the British Labour Party, after the close of the War, will see that the Labour Party, in accordance with the report of the Trade Union Congress, published in 1945, carried out nationalisation of various industries and various services including the Railways and even the Bank of England. I have not understood what changes have been made by the Labour Party in the working of the Bank of England by nationalisation. I am a student of currency and I know something about the Bank of England but there it is that they had it. But what I wanted to tell my friend Mr. Pant is this, that in everyone of those cases where the Labour Party has carried out nationalisation, they have paid full compensation—full. That is to say, they have paid the market value for the shares that they have acquired. Payment of compensation, therefore, cannot come in the way of nationalisation but as I said, I am quite prepared for that proposition because the values of the shares are not due merely to the share capital that is invested. It is due to a variety of social circumstances. It is social causes which have brought about the rise in the value of the shares and there is no reason why a private shareholder should be entitled to appropriate to himself the social values which have become part of the values of his shares. I don't also understand how the theory of no-compensation can be supported. In Russia they paid no compensation, it is true. But it must not be forgotten that the Russian Government undertakes to give employment to people, to feed them, to clothe them, to house them, to scrub them and to provide for all the human needs.

If the State can undertake to feed the population whom it has deprived of compensation, then of course, in those circumstances, the theory that no-compensation shall be paid is a valid one. Why do you want compensation ? Compensation is necessary simply because the State has deprived an individual of his instruments of earning a living. You cannot deprive a man of the instruments of his earnings and at the same time say, "Go and feed yourself". That theory, in my judgement, is a very barbarous one. It is therefore not possible to accept it. But why can we not accept the theory that just compensation means compensation determined by the law of Parliament ? Why not ? It does not mean that Parliament shall make a law exactly in terms of the Land Acquisition Act. You can scrap the Land Acquisition Act. You have a right to do so because it is within the purview of both Parliament and the State Legislatures. It can enact a new Land Acquisition Act with a new set of principles. There is no harm in doing that and no difficulty for doing that. If you do that, well, nobody can have a right to complain because when you bring forth such a measure for determining compensation by law, all sections of the House will have a right to say what they have to say. It would be the result of common agreement. If one Parliament finds certain principles to be good and another Parliament finds that those principles are bad, Parliament may change but it should all be done and it can be done by Parliament. Therefore my suggestion to the Government is this, that rather than bring in this kind of a Bill, a bald one and, as I am going to show later, really a very trifling thing, its corpse ought to be carried unwept, and unsung and nobody ought to cry over it. I am not going to cry over it because it is not going to do any good or going to do any harm, as I will show. Therefore, my suggestion to the Government was this that rather than keep on encroaching upon these fundamental rights from time to time, it is much better to give Parliament once for all the power to determine compensation. This tampering with the Constitution from time to time is a bad thing. I said so last time but I don't suppose the Government has cared to pay any heed. I would like to repeat the same caution again and I should like to

give some reasons why the Constitution should not be amended and tampered so easily. Anyone who is familiar with what is called the interpretation of law by courts—and there are well-set rules as to how Statutes are to be interpreted—will recall that there is a famous rule of interpretation which is called *stare decisis* which means this, that when the courts have given an interpretation for a long number of years in a very uniform sense, and if after a long number of years some lawyer gets up and convinces the court that the existing interpretation is wrong and ought to be changed, the courts say that they shall not do it, although they are convinced that the interpretation is wrong. The reason why the courts adopt this rule *stare decisis* is very important. The court says :

> "Whether the interpretation we have given is right or is wrong is now not a matter of moment, for the simple reason that a large number of people have acted upon our interpretation as being the correct law, have incurred obligations, have secured rights. Now to say that all these obligations and rights are founded upon a mistaken view of the law would be to unsettle the society altogether. Let, therefore, the wrong continue."

That is the attitude that the courts have taken. The same reason prevails, in my judgement, why the Constitution should not be constantly amended. People know that the Constitution contains certain rules, certain obligations, and in accordance with them, they make their contracts, they make their plans for the future. It is not right, therefore, to come in every year and to disturb these values. That is the reason why I say the Constitution should not be so lightly and so frequently amended. I do not know whether the Government would listen to it, perhaps not.

Shri Tajamul Husain (Bihar)**:** Why should they ?

Dr. B. R. Ambedkar: Well, Sir, it is a habit. Once a cow gets the habit of running into the fields of another, you cannot convert her by morality. It is a habit.

Mr. Chairman: Go on, go on.

Dr. B. R. Ambedkar: In other countries wherever a clause of the Constitution has been interpreted by the judiciary in a way which the Government does not like, Government concurs in, it does not like to upset the decision

of the court. Here, in our country, we have cultivated a different mentality. Our mentality is that if the Judges of the Supreme Court do not give a judgement which is to our liking, then we can throw it out. That is what it is. I am rather glad with regard to the behaviour of our Supreme Court. In the short time that it has been in existence, I see some different phases of the Supreme Court. Being a sick person I have not been attending the Supreme Court for the last two or three years, but I am in contact with what is happening. I remember that in the very first flush of its power, the Supreme Court declared or had the courage to declare that a certain section of the Indian Penal Code was *ultra vires*. Our Government at once reacted and brought in an amendment to declare that the interpretation of the Supreme Court was wrong.

(*Interruptions.*)

Mr. Chairman: Let us avoid comments upon the Supreme Court.

Dr. B. R. Ambedkar: I hope that notwithstanding the constant amendments which the Government seems to be prone to bringing forth, the Supreme Court will continue to have its independent judgement, notwithstanding what the Government may have to say. I do not find that the Supreme Court has given any judgement which, any independent man can say, is not in consonance with the terms of the Constitution.

Now Sir, I will proceed to deal with the different clauses in the Bill. The first clause is clause 2. This clause 2 of the Bill divides clause (2) of the original Article 31 into two parts, clause (2) and clause (2A). With regard to clause (2) one has nothing to say, because it is merely a reproduction, probably with a certain economy of words, of the terms, contained in the original colause (2). I have therefore nothing to say about it. But clause (2A) is a new thing and it must be examined carefully. In the first place, I cannot understand the meaning of this clause. It has not been explained by the Prime Minister, nor do I find any explanations from my hon. friend the Minister for Home Affairs. What exactly is it intended to convey ? It is a sort of mysterious clause; it has been shrouded in mystery. Now, let me analyse this clause (2A). What does

it say? To put it in plain language, quite different from the language that is used in the clause, as embodied in the amending Bill, it seems to say this. If Government buys up ownership of any property, it will amount to acquisition and Government will pay full compensation in accordance with article 31. If Government buys up ownership, that is the important point. If Government buys up ownership, then that is tantamount to acquisition and Government will be bound to pay compensation. Secondly, it means that if Government takes possession of the property, then the taking possession will also amount to acquisition and the Government will be bound to pay compensation in accordance with the terms of article 31.

That is what the clause in the Bill says : What is it that will not amount to acquisition ? What is it that is left which Government can do and wants to do and yet escape compensation ? If it acquires ownership, it is said, it will pay compensation; if it takes possession, it says, it will pay compensation because that would be tantamount to acquisition.

12-00 Noon

Shri Tajamul Husain: What about the Sholapur Case? It was only temporary possession for improving matters.

Dr. B. R. Ambedkar: I have got the case here; I shall come to it.

It seems that the only case which will be out of these two, acquisition of ownership and acquisition of possession, is the cancellation of a licence, because, when you cancel a licence you do not acquire ownership and you do not take possession and, therefore, by reason of the cancellation of the licence you do not become liable for paying compensation. That is what this clause means. I wish it had been stated in positive terms that in the following cases, Government shall not pay compensation but having been put the other way, the real meaning of this clause is very much concealed from the sight of the reader. If my interpretation is right, then, what the clause intends to do is to exempt Government from the liability for paying compensation whenever it cancels a licence. Is that a justifiable ground for not paying compensation ? I believe

that the case which my hon. friend Mr. Pant has very much in mind and which I also have in mind, is the case of the bus owners. The bus owners, under the Motor Vehicles Act, have to obtain a licence for running their buses on a certain route. My friend Mr. Pant is a very covetous person and he likes to get the monopoly of running the buses in his own hand and he, therefore, does not like the bus owners. How can he prevent them from running the buses ? He has got the power of cancelling their licences. He therefore, cancels their licences and sets on Government buses on the route on which they were plying and he does not want to pay them any compensation at the same time. The question that I would like to ask is this ; Is this a just and fair proposition ? I have no objection to the Government running their own buses. I do not know how cheap the fares in U. P. are whether they are cheaper than in the case of the private buses.

Shri H. P. Saksena (Uttar Pradesh)**:** Yes.

Shri Tajamul Husain: And better.

Dr. B. R. Ambedkar : I am not saying anything; I do not know whether they give good service; probably they do.

Shri Tajamul Husain: Yes, they do; the Government buses always do.

Dr. B. R. Ambedkar: But the point to be considered is this; here are a body of people engaged in this particular trade, who are earning their living by this trade. They have invested quite a lot of money in buying their stock-in-trade, namely the buses, the workshops and whatever other things are necessary. You suddenly come and say, "Stop your trade. We shall not allow you to carry on". Even that I do not mind but the point that I would like to ask my friend is this; the least thing that my hon. friend could do is at least to buy their stock-in-trade because that very stock-in-trade would be useful to us running by the Government. If it did that and then said that it is not going to give them any more compensation because the stock-in-trade has been bought with which money they could go and practise any other trade they liked, that would be quite an equitable proposition from

my point of view. But the Government does not want to do that. In running the Government buses they prefer to buy new buses. The Minister has yet to give an answer as to why he would not take the old buses from the people whose licences he has cancelled. No answer has been given for this thing.

Mr. Chairman : Dr. Ambedkar, you have taken nearly an hour.

Dr. B. R. Ambedkar: Yes, Sir, that is quite true.

Mr. Chairman: Please wind up as early as possible.

Dr. B. R. Ambedkar: Yes, Sir. What I was saying was this, that in such cases it would be wrong to deprive a man of his means of livelihood and not to compensate him for the loss of his stock-in-trade. I would like to hear some argument on this subject which would justify this kind of conduct. Therefore,, my submission is that clause (2A) is a most inequitous piece of legislation. It has no relation to justice, equity and good conduct. Unless my friend is going to give some satisfactory explanation I mean to oppose that clause.

Now I will proceed to clause 3 of the amending Bill. I would like to say at the outset that the provisions contained in clause 3 are in my judgement, most insignificant, trivial and jejune and I do not know what the Government is going to achieve by incorporating this clause in the Constitution. Now, with regard to sub-clauses (g), (h) and (i) of proposed clasue (1), in clause 3 of the amending Bill, I have not the least objection because I do not see that by taking action under these clauses, there is going to be any injury to anybody. The essence of acquisition is that it causes injury to the interests of anybody. I do not see that these sub-clauses will cause any injury to anybody and, therefore, I support the proposition that there need be no compensation in these cases.

But there is one thing that I would like to say with regard to these clauses and it is this that if any action is taken under these clauses (g), (h) and (i), it must only be on the ground that public purpose justifies it. It must not be merely an arbitary act on the part of the Government. It must not be a whim that Government wants to amalgamate one company

with another or transfer the management of one to another. These clauses must be subject to the rule of public purpose. If that, is so, then there is no objection to them.

Now going back to the other clauses, to (a) I have no objection; it may stand as it is.

With regard to (b) I do not know whether the first part of (b) is very different from (a). It seems to me that both are alike, but I would like to have some explanation as to what is meant by "modification of any rights in agricultural holdings". What does that mean ? There is no explanation. As far as I understand, an agriculturist requires four rights. First is security of tenure; he must not be liable to ejection by the landlord without proper cause. Secondly he would be liable to pay only what is called fair rent, as may be determined by a court if it is necessary. Thirdly he must have transferability of tenure. If he wants to sell his holding he should be free to sell it and the landlord should not stand in his way. And fourthly it must be hereditable, that is to say, if he dies, his descendants should have a right to claim the holding. Now these are the four things which I think a holder of an agricultural holding is interested in. Now Government would take power to modify these things. I do not know what is the nature of the modification and what are the rights which they propose to modify. I think some explanation is necessary.

Then comes (c), the fixation of the maximum extent of agricultural land, etc. Well, all that I can say is this that whether this particular clause will have positive results depends upon what is the maximum that you are going to fix. This is the pet idea of the Socialist Party. They want that land should be distributed after fixing the maximum holding of a tenant.

Mr. Chairman: Are not these matters to be taken up in the Joint Committee when it comes to discuss the thing?

Dr. B. R. Ambedkar: It may be but the point is this that it is necessary to know whether these things are really good to be incorporated in the Constitution. My Friend Mr. Pant

knows because he was the Chairman of the Committee on Land Tenures in U. P. which I have studied—that the maximum holding in U. P. is about two acres for a *ryot* and I do not know that there is any part of India where *tyotwari* prevails where the holding is larger than two acres. What maximum can you fix I do not understand. Therefore this seems to me quite a futile thing.

The other thing about which I wish to make some reference is this. It says that the surplus land shall be transferred to the State or otherwise. I do not know what is meant by "otherwise", whether it means that it may be given to other tenants; that might be the meaning. If so, I would like to utter a word of caution. I am of opinion that peasant proprietorship in this country is going to bring about complete ruination of the country. What we want is—although I am not a Communist—the Russain system of collective farming. That is the only way by which we can solve our agricultural problem. To create peasant proprietorship and to hand overland to peasants who have not got means of production is in my judgement……

Shri Tajamul Husain: Have they done it in Russia ?

Mr. Chairman: Don't bother, he takes it as an illustration.

Dr. B. R. Ambedkar: I am prepared to pick and choose from everyone, Socialist, Communist or other. I do not claim infallibility and as Buddha says there is *nothing* infallible; there is nothing final and everything is liable to examination.

Shri Tajamul Husain: That is why we are amending the Constitution framed by Dr. Ambedkar.

Shri S. Mahanty (Orissa)**:** And voted by you.

Dr. B. R. Ambedkar: Now with regard to vacant and waste land. That proposition is of course a welcome proposition and I support it. But I have yet to see if you take vacant land without compensation, whether the municipality which would have to exercise this right would do so because I fear a large majority of municipal councillors are friends of the slum-owners and therefore probably they will not exercise this right unless some ting more is done.

Now with regard to management, all that I want to say is this. Most people do not realise what is involved in this. If the Government wants to take up the management of a mill because it is badly managed, there is no harm in doing that. But the question is this. Suppose the Government management turns out to be worse than the previous management and losses are created, who is going to be responsible for those losses ? I think some provision must be made. Nationalised industries so far as India is concerned do not appear to be very profitable. Our Airways Corporation, as I see from papers, has brought to us a loss of one crore of rupees within one year.

Shri S. Mahanty: And about Rs. 50 lakhs.

Dr. B. R. Ambedkar: What other corporations would do I do not know.

But if you take the property of a man because it is mismanaged and because there is a social purpose in it, you must also make some provision that the losses that might be incurred are made good by somebody and are not put on the head of the old man who was the owner of the property.

Now, Sir, one word with regard to clause 5. It seems to me very obnoxious. What are we asked to do by clause 5 ? By clause 5 we are asked to give constitutional validity to laws passed by State Letislatures. We have not seen those laws; they have not been circulated; they have not been debated here. And yet we are asked here to exercise the constituent powers of Parliament not only to validate them but to give them constitutional immunity from the other clauses of the Act. Sir, I think it is very derogatory to the dignity of the House that it should be called upon to validate laws passed by some other State which laws it has not seen, it has not considered. The proper thing for the Government to do is to put these subjects in the concurrent field so that Parliament may at least give them validity by the powers vested in it. But it is a very wrong thing. Because we did it in the case of the first amendment where we added the Ninth Schedule to the Constitution, that is no reason why we should widen this anomaly and this ugliness in the Constitution.

That is all that I want to say.

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STATES REORGANISATION BILL, 1956

***Dr. B. R. Ambedkar** (Bombay)**:** Mr. Deputy Chairman, the storm centre of the debate on this Bill as I see it from the papers is the position assigned to the City of Bombay. As is obvious from the Bill this City which was a premier city in the civic affairs of this country has been brought down to the level of Adaman and Nicobar Islands—what has been described in our Constitution as the territories of India. That means that these territories and now the City of Bombay will not have any Legislature or Executive. Nobody in his widest dreams could have conceived of such a madness. A city which has been in the forefront of India, which has taught politics of India, is now placed on the level of the Laccadive and Maldive Islands and the Nicobar Islands. I am sure that the Government which has fostered this proposal must have the strongest reasons, incontrovertible reasons, in order to justify the decision that they have taken. There have been contestants to the claim for the City of Bombay. There are the Maharashtrians who claim that the city belongs to them. There are our Gujarati friends; I do not know on what basis they lay their claim, but they claim a kind of an easement over the city. They say that they will not allow the city to go into the possession of the Maharashtrians and the quarrel is going on. It has been admitted by no less a person than Mr. Morarji Desai that Bombay belongs to Maharashtra. I have read his speech which he delivered to the Gujarat Maha Pradesh Congress, or something like that, in which he categorically made this statement that Bombay belongs to Maharashtra. If that is so, I am quite unable to understand what objection there can be for the city of Bombay to be given to Maharashtra. Under the British regime when citizenship was common, any man could go anywhere and reside and the

*P. D., (R. SO, Vol. 12-A of 1956, 1st May 1956, pp. 834-46.

local people could not object. Under those circumstances various people from various Provinces have gone to cities located in other Provinces. They built up their interests and have lived there for generations. But in the redistribution that we are now making, I have not seen anybody—Non-Madrasi living in Madras—raising objection to Madras being given to the Tamilian. Calcutta is equally a cosmopolitan city. When I was the Labour Member, I had often to visit Calcutta in order to see the labour conditions there and I found that the Bengal people did not call the people living in Calcutta as 'Bengali'. Their word was "*Calcuttiya"* These are *"Calcuttiyas"* That shows that they were not part of Bengali population, and it is a huge population. Notwithstanding this, our friends, the Congress Party people, have never raised any objection; nor the *Calcuttiyas"* have ever raised any objection to Calcutta being handed over to the Bengali. My first question to my Friend, Mr. Pant, is this. If Calcutta can go to Bengali and Madras can go to Tamilian, what objection is there for Bombay to go to Maharashtra ? That, I think, is a fundamental question which he must satisfy the Maharashtrians about. Yes, it is said that there is in Bombay a Gujarati population which amounts to not more than 15 per cent, and that the Maharashtrians do not form a majority of the population. It is said that that is the reason which vitiates the claim of the Maharashtrians over Bombay. I wonder whether there are any cities in this country where the foreign population in the city is not 15 per cent, and the position of Bombay, it is said, by reason of the fact that 15 per cent, are Gujaratis is in a sense peculiar. How is it peculiar ? One can *give* any number of illustrations to show that our cities are always a mixed quarter. No city can claim to have a uniform population of its own. And if notwithstanding this fact the other city can claim to belong to West Bengal, I am quite unable to understand why Bombay City should not make a similar claim. There are some people who have said that Bombay never belonged to Maharashtra. Well, I am surprised at the knowledge of those who made the statement, I am very much surprised. Who were the first inhabitants of Bombay ? They were the *kolis*—the fishermen—and do the

fishermen say that they are not Maharashtrians ? I would like any one to go and make enquiries and find out what is the opinion of the *kolis* who were the original inhabitants of Maharashtra. If those ladies and gentlemen who have indulged in these wild allegations want to know a little bit of its characteristics, I should like to tell them that even before the Portuguese acquired Bombay, Bombay belonged to a dowager queen called Lakshmi Bai and the Portuguese took it as a tenancy from her. It did not even belong to the Portuguese. The Portuguese never conquered it. They took it. The poor queen subsequently could do nothing. Ultimately, it was transferred to the British as a dowry to the wife of Charles II. It was so small that the dowry was not more than £10. That was because Bombay was what I shall call a place occupied by a few *kolis*. I have got with me the original print of the original Bombay when it transferred itself from the Portuguese to the British. Therefore, historically, geographically and logically—the logic which we have applied to other cities—I cannot see how anybody can dispute the claim of the Maharashtrians to have the city to themselves.

Of course, there *is* a wide difference of opinion between myself and the rest of the Maharashtrians. The rest of the Maharashtrians want Bombay as part of a United Maharashtra. Now, I am very much against this United Maharashtra. I do not understand why Maharashtrians should want a United Maharashtra and I am sure about it that in the course of future history, we are not going to war with U. P. nor are we going to war with any of the northern territories like -Rajasthan. Why do you want a United Maharashtra ? I am at one with Maharashtrians that Bombay belongs to Maharashtra. On that, I will fight tooth and nail. There can be no doubt on that point at all. And therefore I had suggested that the Government might give Bombay a separate status as a City State and call it the "Maharashtra City State" so that it will be part of Maharashtra and at the same time, it will enjoy the status of an 'A' class State. But since the Government, for some reason which it is very difficult for me to understand, is going to reduce the status of Bombay City to that of the Nicobar Islands, I tell them right now that I

reverse my position and fight with them along with the rest of the Maharashstrians. Now that is what I want to say about Maharashtra.

With regard to the question that the Maharashtrians in Bombay City do not form a majority, I like to clear that idea. I think that there is a lot of misunderstanding. Some census figure has been dug out which said that the population of Maharashtrians in Bombay is 46 per "cent, or something like that. Therefore they are not in a majority. Sir, it is a complete misunderstanding. Any man who knows the census operation, who knows statistics and who knows the peculiar statistics of Bombay City would pay no attention to that figure. The census figure records the state of affairs on a particular day on which the census is taken. It does not indicate the common state of affairs. What happened on a particular day is taken as the typical example, but it is not typical at all. Secondly, the important point to be noticed is that Bombay City is one of the cities which is most subjected to immigration and emigration. Unfortunately, in the year 1941 when the new census was taken, the Government of India, in order to shorten their labour, did not repeal the immigration and emigration report figures for the year 1931. But if one were to go into the figures given on immigration and emigration in the census of 1931, he will find what violent changes there are in the immigration and emigration position. I do not think that even the non-Maharashtrian population which appears to be in a majority is permanently there in a majority. Most of them come for seasonal labour. If they happen to be there on the day of census, their existence is recorded as 'residents of Bombay'. On the next day, they might as well leave for their native places, because they have made enough money for their living. In these circumstances, can anybody accept the census figures as true figures of the citizens of Bombay? I deny that conclusion altogether. I have been a student of the census statistics. I have studied them considerably. I know what they mean. Therefore, the claim that these figures show that the population of the Maharashtrians is less is absolutely ambiguous, if not bogus. It has no value. It only indicates what happened to be on a particular day on which the census was recorded.

Now, I have said that I did not agree with the majority of the Maharashtrians, if I may say so, that there should be a united Maharashtra. My contention is that there should not be. I am going to say the same thing about U. P., about Rajasthan and about these huge Hindi reptile provinces, which have been looming large before us. I shudder to see U. P. standing before me in that shape.

Shri H. P. Saksena (Uttar Pradesh)**:** God save your soul.

Dr. B. R. Ambedkar: Do not pray for my soul. I have no soul. I am a Buddhist. Nobody need take the trouble of praying for my soul. I do not believe in God. I have no soul. I have spared you that trouble.

Now, I am surprised, I must say, that the Commission should have retained U.P. as it is, should have retained Rajasthan as it is, and should have linked up the two provinces of Vindhya Pradesh and Madhya Pradesh into one.

Shri K. S. Hedge (Madras)**:** Madhya Bharat.

Dr. B. R. Ambedkar: What does this mean ? I have made a little calculation. The area of U.P. is 1,14,323 sq. miles. Its population is 6,32,54,118. Bihar : The area is 70,368 sq. miles; its population is 4,02,18,916. Madhya Pradesh: Area is 2,01,633 sq. miles; its population is 3,28,46,971.1 know I have to deduct something here for Vidarbha. Rajasthan : Area is 1,28,424 sq. miles; population is 1,52,97,979. The total area is 10 crore sq. miles and population is about 15 crores.

Shri T. Pande (Uttar Pradesh)**:** Ten lakh sq. miles.

Dr. B. R. Ambedkar: That does not matter very much to my argument.

The question that requires to be dealt with in my judgement is a very serious question. Are we to have one State for one language, or are we to have one language for one State ? If this question had no political consequences, nobody would bother about it, but the trouble is that this question has very serious political consequences. In the United States, the population of the various States differs. In some States it is small, and in some States it is big. But the Americans do not mind it on account of the fact that the States have

equal powers. The Lower House has the same power as the Upper House, and all the States have equal representation in the Upper House without reference to population. In the Senate they have equal representation. Here, what is the position ? Under our Constitution, there is no such equality at all. Every State has not the same power, and the Upper Chamber has no powers at all, so far as finance is concerned. It may happen—it is very likely—that the States in the northern area may combine together on an issue on which the southern States of India do not agree. What is likely to happen in that event ? In that event, the north, if I may say so, will over-ride every proposition in which the southern States are interested. If that happens, I fear that there maybe civil war. I may be using some exaggerated sentiment, but such a thing has happened. It has happened in the United States. In the United States the origin of the Civil War was this inequality of power. In the earlier stages it was agreed that up to a certain latitude the slave States might exist but that there would be no slavery above that latitude. It happened, I believe, that California was at one time a territory; it was not a State. It was later on decided to make it a State. The Southern States quarrelled, because they felt that if California became a State, it would acquire the power of voting and that it would change the balance of voting. Notwithstanding that, the Northern States decided to convert *California* into a State. Thereby they got a majority of voting, and then with this majority of voting, they decided not to have slavery in the United States at all, which affected the political and economic interests of the Southern States. At once, the Southern States resisted. They said, 'We would not remain part of the Union, if you are going to exercise that power for the abolition of slavery." Then, there was the Civil War. There are people here who fear the influence of the northern people. One important example *yon* could recently see was…….

Shri Kailasb. Bihari Lall (Bihar)**:** Because the Southern States wanted slavery.

Dr. B. R. Ambedkar: The hon. Member is right. Mr. Rajagopalachari had long been expressing this fear that this Union will break down.

Hon. Members: No.

Dr. B. R. Ambedkar : There are plenty of slaves who keep it up.

Shri R. U. Agnibhoj (Madhya Pradesh)**:** Independence is kept by the united people, not by slaves. Therefore this country will have its independence through unity and not through slavery.

Dr. B. R. Ambedkar: I am very glad to have your assurance.

Shri R. U. Agnibhoj : Thank you.

Dr. B. R. Ambedkar: Now there are plenty of things one can imagine on which the issue may be between the north and the south and if that happens and if the matter is taken to bloody conclusions, well, all the efforts that we have made in order to bring about unity will have been in vain. I therefore suggest that the United Provinces should be cut down into three provinces, Bihar should be cut down into two and Madhya Pradesh also should be cut down into two.

Shri R. U. Agnibhoj : You should have 600 States.

Dr. B. R. Ambedkar: Nothing is lost. It does not affect the linguistic principle at all. They all have the same language. What does it matter if U. P. is divided into three States, or if Madhya Pradesh is divided into two ? I see no difference at all. My friend Mr. Pant, I remember to have read once his statement, had stated that he would have no objection to dividing the U. P. but he has never said a word about it in the course of the debate nor has he voluntarily suggested this self-sacrifice on his part. But I give a warning, I know the house is not going to listen to me, but it is my duty to say what I feel. With regard to Marathwada, I have very strong feelings and I very vehemently resist the United Maharashtra. I can speak more authoritatively about the Maharashtra than I can speak about other areas. What has

been the state of affairs of ths United Maharashtra ? In Maharashtra I find that only that Marathas from the Satara district or that area are able to capture political offices. The rest of the people are just where they are. I do not understand how a Minister drawn from Satara can have any interest in for instance, the Ratnagiri district. I do not think any Minister has ever visited the Ratnagiri district.

An Hon. Member: So many have.

Dr. B. R. Ambedkar: For the sake of drawing allowances, I think. Not for doing service.

An Hon. Member: Still they have visited.

Dr. B. R. Ambedkar: Areas and areas are completely neglected, what interest has a Maratha from the Satara district in the Ratnagiri district? What interest can a Brahmin for instance from Mahavidarbha have in the Satara district ? I do not quite understand this mentality of huddling together. Is it like Bharat Milap ? When Ram came from Lanka, Bharat embraced him. What for—for brotherly love and affection. Nothing more than that. Why not allow such areas to develop their own interests, to pay attention to their own interests ? Besides, as my friend Mr. Pant knows—I may be wrong—I suppose he is the last of the veterans. Who will succeed him—can he tell me ? Who will succeed him as a Minister ? I don't see anybody. Certainly I don't see anybody in the rank and file of the Congress. If any Minister of the towering personality of my friend Mr. Pant has to be looked for, it would have to be someone outside the Congress ranks. I am sure of that.

Shri H. P. Saksena: You, for instance.

Dr. B. R. Ambedkar : I shall die pretty soon. Don't enrol me. This country, by this kind of thing, is going to dogs. Our primary concern is to raise and train politicians so that they. can learn to take responsibility upon their own shoulders. We ought not to sit tight oh one thing for ever. We ought to allow other people to take responsiblity while we are alive so that if they commit any mistake, we may rectify it in time. If you have U. P. divided into three provinces, you will have probably

30 ministers trained in the art of administration, while if you have one, you will have just 10 ministers—nothing more than that. The same thing will happen in Bihar and the same thing will happen in these big provinces. Therefore, in my judgement, there is a great disadvantage to this country in keeping these large provinces as they are. My Friend may perhaps listen to this argument if he does not listen to the other. His argument, if I have heard correctly, is' Oh ! in a country where Ram and Krishna were both born, do not divide it.' That is the argument. I think, he used sometimes. But that is not an argument of a statesman. Now Sir, I was saying about the Marathwada people, I mean the Maharashstrians, that the same thing is true of this Maharashtra. Maharashtra, except for a few Brahmins, is politically not upto the mark, I am sorry to say. I am not speaking with any personal venom of any kind. I know very well that I have had my full share of public life and I do not desire to compete with any one for more. But I like that my State should be well administered and in order that it may be well administered, it must have competent people. Now in a united Maharashtra you will not have more than five or six ministers. Some of them may be Brahmins and some of them may be non-Brahmins. Is that going to be enough for the future of Maharashstra ? Here you have a territory called Marathwada which has just been released from the reins of the Nizam. But you have only to just go and see the area in order to see its wretchedness, the condition of the people, with no clothes, hardly any food, no education. There is no primary school even there. I was told that there was one primary shcool in which there was only one chair and all the teachers ran early in the morning in order to capture that chair so as not to allow any other teacher to sit on it. I like to know whether this most backward area which has no irrigation, no food, no clothes, no school or anything of that kind, will fare better ? For some reason or other, the Nizam spent all his love and affection on other people, not on Marathwada. I like to know whether my friend Kaka Gadgil, if he become the Chief Minister of United Maharashtra would pay attention to the condition of the people of Marathwada or whether he would pay his attention

to Poona and its inhabitants. Let us not talk nonsense. Let us see plain things as they are. Why not allow Marathwada to have a separate province or State and let Marathwada rule itself? It knows its interests best. I have been connected with Marathwada for the simple reason that I established a college there. But it is not a flourishing college and I am every year bearing a huge loss. I know that the Marathwada people would look after themselves much better than any of the Bombay people who talk about them. Particularly there is no education there at all. There is the danger that Marathwada may be attached to the Poona University. God only knows what will happen.

Shri B. B. Sharma (Uttar Pradesh)**:** So you believe in God?

Dr. B. R. Ambedkar : I cannot hear what you say. If you want a reply from me, you must talk audibly.

Shri B. B. Sharma: Whose God is that ?

Shri Jaspat Roy Kapoor (Uttar Pradesh)**:** Don't hear inconvenient questions.

Shri B. B. Sharma: Who is your God ?

Dr. B. R. Ambedkar: To me the people are God.

Sir, in the case of Marathwada it is absolutely necessary that they should have a separate autonomous body to look after their education and they should not be tied down hand and foot to the Poona University. We won't have that at all.

There is one other point to which I would like to refer. As I have said, I may be wrong, but I have a feeling that there are many holes in this federation and it may crack. We are a cracking society. We have no union. We have no unity and any time this whole thing may crack. Therefore, we should, in time, take steps to see that it does not crack. I suggested one way and that was to reduce the northern provinces to smaller areas so that the southern people may not suffer any heavy pressure. I also suggest another remedy and that remedy is to have two capitals for this country. I suggest that

Hyderabad should be made the second capital of India. You can have your Delhi and for some seasons it may be good. But you must have a capital in Southern India, where people may feel that their Government is nearer to them. I suggested at one time that Hyderabad should be made the second capital of india. It is one of the most beautiful towns that I have ever seen in India. It has got all the necessities and amenities which a capital may require. All that may be necessary would be to have a sort of Legislative Assembly and Council of State. If that is done, then the people in the South with whom I have had many talks, would feel that their Government is nearer, that it is not so far away as Delhi. Delhi to the Southern people is a kind of a foreign territory. It is hot and they do not want to stay for long. I hope my hon. friend will take these points into consideration.

Sir, I am not in a condition to speak very long, nor have I got many other points to urge. But there is one thing that I would like to say. I had hoped that this Report of the S.R.C.† would have been placed before, not merely the party people, but generally before all, and they should have obtained the common advice of all the citizens of India and should have given effect to their decision. Sir, it was my hope that what we would settle now, we would settle for ever, because it is a very foolish thing for a gardener to plant a tree today and to uproot it tomorrow, to see whether it has taken root. That way the plant will never live. I cannot help reminding my hon. friend of the statement of Tom Paine that whatever is wrongly. settled is never permanently settled; it has to be resettled. If you are going to settle these things with the help of your party, remember that your party is not perpetual. You can seethe signs of waning even now before your eyes.

If whatever you do you do without the consent of the Opposition, I have not the least doubt about it that when the Opposition would come into power, they would uproot the thing and replant it. Such a thing would be most dangerous for us. Sir, I have done.

† State Reorganisation Committee.

Shri C. P. Parikh (Bombay)**:** The hon. Member made an incorrect statement when he said that Shri Morarji said at any time categorically that Bombay belongs to Maharashstra. I think the hon. Member should make such statement with a sense of responsibility.

Dr. B. R. Ambedkar: It is in the 'Times of India'.

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*LEAVE OF ABSENCE TO DR. B. R. AMBEDKAR

Mr. Deputy Chairman: I have to inform the hon. Members that the following letter has been received from Dr. B. R. Ambedkar.

"I came to Bombay for treatment and had hoped to be able to return to Delhi in time. Unfortunately, I have not recovered. I am therefores, unable to attend and apply to you for leave of absence. I hope the Rajya Sabha will grant my request."

Is it the pleasure of the House that permission be granted to Dr. B. R. Ambedkar for remaining absent from meetings of the House from 29th March 1955, till the end of the Ninth Session and from all meetings of the House during the current Session ?

(*No hon. Member dissented.*)

Permission to remain absent is granted.

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* P. D., Vol. 10-C, 1st October 1955, pp. 5529-30.

(55)

*OBITUARY REFERENCE—DEMISE OF DR. B. R. AMBEDKAR

The Prime Minister (Shri Jawaharlal Nehru):

Mr. Deputy Chairman, I deeply regret to inform the House that a Member of this House who had played a very leading part in many matters passed away a short while ago. I refer to Dr. Ambedkar. Dr. Ambedkar for many, many years had been a very controversial figure in Indian public affairs, but there can be no doubt about his outstanding quality, his scholarship, and the intensity with which he pursued his convictions, sometimes rather with greater intensity than perhaps required by the particular subject, which sometimes reacted in a contrary way. But he was the symbol of that intense feeling which we must always remember, the intense feeling of the supressed classes in India who have suffered for ages past under our previous social systems, and it is as well that we recognise this bidden that all of us should carry and should always remember, It may be that some of us thought, as I have just said, that he overdid the expression of that feeling, but I do not think that, apart from the manner of utterance or language, anybody should challenge the rightness of the inetnsity of his feeling in that matter which should be felt by all of us and perhaps even more so by those who have not in themselves or in their groups or classes had to suffer from that. He was that. Therefore he became this symbol. But we in Parliament remember him for many other things and more particularly for the very prominent part he played in the making of our Conbstitution, and perhaps that fact will be remembered even longer than his other activities. I am quite sure that every Member of this House will want

* P. D., Vol. 10-C, 6th December 1956, pp. 1769-70.

us to send our deep condolences and message of sympathy to his family and to express our deep sorrow at his demise.

It is the custom of this House. I believe, Sir, that when a Member dies in Delhi, the House adjourns for the rest of the day. I leave it to you, Sir, and to the House, but I would suggest that it is right and proper for us to follow that custom.

Mr. Deputy Chairman : I would like to associate myself with the sentiments expressed by the Prime Minister. I am sure every Member of this House shares the same sentiments. We have all heard with profound sorrow and a sense of shock of the sudden death of Dr. Ambedkar. He was present in the House only the day before yesterday and was in his usual mood, talking and joking with his friends. Many may not agree with him and his political philosophy but he was one of our prominent Members and he was always listened to with respect. His speeches were marked by scholarship, erudition and deep study. He will, however, be remembered as one of the great architects of our Constitution. He was also very anxious to see that the Hindu Law was enacted and most of it has been enacted. It is a great loss to this House Particularly, and, as a mark of respect, I request the House to stand up for two minutes.

(*The House stood in silence for two minutes.*)

Mr. Deputy Chairman: The House stands adjourned till 11-00 A.M. tomorrow.

The House then adjourned at fifty three minutes past eleven of the clock till eleven of the clock on Friday, the 7th December 1956.

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LOK SABHA

Thursday, 6th December, 1956

The Lok Sabha met at Eleven of the Clock

12-00 hrs.

DEATH OF DR. AMBEDKAR

***The Prime Minister and Leader of the House (Shri Jawaharlal Nehru):** Mr. Speaker, Sir, I have to convey to the House the sad news of the death of Dr. Ambedkar. Only two days ago, I believe, the day before yesterday, he was present in the other House of which he was a Member. The news, therefore, of his death today came as a shock to all of us who had no inkling of such a thing happening so soon.

Dr. Ambedkar, as every Member of this House knows, played a very important part in the making of the Constitution of India, subsequently in the Legislative Part of the Constituent Assembly and later in the Provisional Parliament. After that, he was not a Member of Parliament for some time. Then, he came back to the Rajya Sabha of which he was a sitting Member.

He is often spoken of as one of the architects of our Constitution. There is no doubt that no one took greater care and trouble over Constitution making than Dr. Ambedkar. He will be remembered also for the great interest he took and the trouble he took over the question of Hindu Law reform. I am happy that he saw that reform in a very large measure carried out, perhaps not in the form of that monumental tome that he had himself drafted, but in separate bits. But, I imagine that the way he will be remembered most

* P. D., Vol. 10, Part II, 6th December 1956, pp. 2059-68.

will be as a symbol of the revolt against all the oppressive features of Hindu society. He used language sometimes which hurt people. He sometimes said things which were perhaps not wholly justified. But, let us forget that. The main thing was that he rebelled against something against which all ought to rebel and we have, in fact, rebelled in various degrees. This Parliament itself represents in the legislation which it has framed, its repudiation of those customs or legacies from the past which kept down a large section of our people from enjoying their normal rights.

When I think of Dr. Ambedkar, many things come to my mind, because he was a highly controversial figure. He was not a person of soft speech. But, behind all that was this powerful reaction and an act of rebellion against something that repressed our society for so long. Fortunately, that rebellion had the support, not perhaps in the exact way he wanted it, but in a large measure, the principle underlaying that rebellion had the support of Parliament, and, I believe, every group and party represented here. Both in our public activities and in our legislative activities, we did out utmost to remove that stigma on Hindu society. One cannot remove it completely by law, because custom is more deep-rooted and, I am afraid, it still continue in many parts of the country even though it may be considered illegal. That is true. But, I have no doubt that it is something that is in its last stages and may take a little time to vanish away. When both law and public opinion become more and more determined to put an end to state of affairs, it cannot last long. Anyhow, Dr. Ambedkar, as I said, became prominent in his own way and a most prominent symbol of that rebellion. I have no doubt that, whether we agree with him or not in many matters, that perseverance, that persistence and that, if I may use the word, sometime virulence of his opposition to all this did keep the people's mind awake and did not allow them to become complacent about matters which could not be forgotten, and helped in rousing up those groups in our country which had suffered for so long in the past. It is, therefore, sad that such a prominent champion of the oppressed and depressed in India

and one who took such an important part in our activities, has passed away,

As the House knows, he was a Minister, a member of our Cabinet, for many years, and I had the privilege of co-operating with him in our Governmental work. I had heard of him and, of course, met him previously on various occasions. But, I had hot come into any intimate contact with him. It was at the time of the Constituent Assembly that I got to know him a little better. I invited him to join the Government. Some people were surprised that I should do so, because, it was thought that his normal activities were of the opposition type rather than of the governmental type. Nevertheless, I felt at that time that he had played an important and very constructive role in the making of the Constitution and that he could continue to play a constructive role in governmental activities. Indeed, he did. In spite of some minor differences here and there, chiefly, if I may say so, not due to any matters of principle, but rather linguistic matters and language used, we co-operated in the Government for several years to our mutual advantage, I think. Anyhow, a very leaning and prominent personality, who has left his mark in our public affairs and on the Indian scene, has passed away, a personality who was known to nearly all of us here, I suppose, and I feel sure that all of us feel very sad. We know him well. He had been unwell for a long time. Nevertheless, the passing of a person is painful. I am sure that you, Sir and the House will be pleased to convey our deep condolences and sympathy to his family.

There are various rules laid down in our Rules of Procedure in regard to such occurrences, in regard to adjournment of the House. Normally speaking, those rules apply to Members of the House. Dr. Ambedkar was not a Member of this House. He was a Member of the Rajya Sabha. He was an ex-Member of this House. The rule says that in such cases, a reference may be made in the House, but there may be no adjournment unless he comes in the category of outstanding personalities, in which case, total adjournment may be made. There can be no doubt that he comes under the category of outstanding

personalities. According to the strict rule, it says, token adjournment may be made. I submit that, without doing any violence to this rule or to the spirit underlying this rule, the present case deserves for some reasons which I have mentioned and others which I have not mentioned that the House do adjourn for the day. That is subject to your wishes and the wishes of the House.

Shrimati Renu Chakravartty: Sir, I join the Leader of the House in requesting you to convey to the members of the family of Dr. Ambedkar the condolences of our party and our colleagues.

We, younger Members, never had the privilege of working with him. We had also our difference. But, to-day, we all of us cannot forget how he brought to the forefront of our people's conscience the disabilities suffered by a section of our people owing to our oppressive social system. Personally I feel that, although we have passed the Hindu Code Bill in parts, the principles which Dr. Ambedkar had embodied in his original draft were wiser in many aspects. We also pay our tribute to his outstanding intellect which rose against social inequality and narrow prejudices, and he became one of those who were known as the architects of our Constitution, and I am sure the country will remember him embodied in that constitution. I also join with the leader of the House in requesting you to adjourn this House as a mark of respect to his memory.

Shri Asoka Mehta (Bhandara): I wish to associate myself with the tribute that has been paid to Dr. Ambedkar.

I was privileged to be associated with him on more than one occasion and in his remarkable and fascinating career, there were many facets. We who come from Bombay remember him as a teacher, we remember him as an economist, we remember him as a labour leader, we remember him as political leader. Apart from the great work that he did in this House and as a Member of the Government, as far as my part of the country is concerned, he brought a new awakening. It was because of him the large sections of people on our side were given a sense of social significance, they were given a

sense of confidence. I believe if he had not been there, perhaps my part of the country would not have been what it is today.

I am sure in paying our respect to his memory and in trying to do honour to him by adjourning to day, we only pay the great debt that many of us owe to him for the great services that he has rendered to our society.

श्री. वि. घ. देशपांडे (गुना) : अध्यक्ष महोदय, मैं समझता हुं कि डा. अम्बेडकर के निधन समाचार से केवल संसद् में ही नहीं बल्कि समुचे राष्ट्र भर में एक दुख की लहर फैल जायेगी । डा. अम्बेडकर ने भारत का बिधान बनाया था और उसको तैयार करने में उन्होंने अधिक परिश्रम और योग्यता का परिचय दिया । इसके अतिरिक्त डा. अम्बेडकर हिन्दू समाज के एक महान नेता थे हालांकि डा. अम्बेडकर ने हिन्दू समाज पर बड़े प्रहार किऐ, तीखे और कड़वे प्रहार किये, लेकिन मैं समझता हूं कि उसका भी एक कारण था कि, डा. अम्बेडकर का जन्म जिस जाति में हुआ था उसके प्रति सवर्ण हिन्दुओं ने बहुत पाप किये है और उन पापों को देखने के पश्चात डा. अम्बेडकर का कभी इतना तीक्ष्ण होना समझ में आ सकता है और यह भी हमारे पापों का फल है ऐसा मैं मानता हूं ।

डा. अम्बेडकर की योग्यता और पांडित्य इतना ऊंचा था और इतना महान था कि मैं समझता हूं कि दूसरे किस कारण से नहीं तो इसलिए कि उनका व्यक्तित्व इतना महान था कि जिस को ले कर उन्होंने अस्पृश्यता के विरुद्ध इतना घोर संग्राम किया, डा. अम्बेडकर को मान देना अत्यावश्यक था । डा. अम्बेडकर ने अस्पृश्यता निवारण के लिए जो जीवन पर्यन्त प्रयत्न किये वह कभी भुलाये नहीं जा सकते और हालांकि उनके पहले से अस्पृश्यता निवारण का आन्दोलन किसी न किसी रुप में इस देश में चलता आया है पर अस्पृश्य लोगों को एक मनुष्य के नाते खड़े हो कर लड़ने और झगड़ने का काम अगर किसी ने सिखाया तो यह डा. अम्बेडकर ने सिखाया और उन्होंने हिन्दू समाज के इस पददलित वर्ग को उठाया और उनको बनाया कि वे भी दूसरों की तरह इन्सान हैं और इस नाते अस्पृश्य लोगों के प्रति की गई उनकी सेवाओं को देश कभी नहीं भुला सकेगा । आज हमारे बीच से एक महान नेता उठ गया है और मैं समझता हूं कि उनकी मृत्यु से जो स्थान रिक्त हुआ है उसकी पूर्ति निकट भविष्य में होनी, मुश्किल नजर आती है । सदन के नेता ने जो उनकी मृत्यु पर दु:ख प्रदर्शित किया है उसमें मैं पूरी तरह उनका साथ देता हूं ।

Shri Frank Anthony (Nominated Ango-Indian): I would like to associate the Independent Group with the sentiments that have fallen from the Leader of the House.

It has been my privilege to know Dr. Ambedkar for many years, and I feel that no adequate tribute can be paid to him in the course of a few minutes. He was a versatile mind. He was not only a deep, but a profound scholar, and, as the Leader of the House said, he was a controversial figure. But what

I believe was the dominant characteristic of the complex personality was the characteristic of being an indomitable fighter, and it was that indomitable spirit which enable him to triumph over personal disabilities which perhaps would have crushed persons of less tenacious character.

We may not have agreed with his politics. Perhaps we did not agree sometimes with the way that things were said by him, but having heard from him the bitter personal disabilities with which he was confronted from his earliest life, I would not presume to judge the fact that perhaps in some respects the iron had entered his soul and his bitterness to that extent, if not justified, at least was understandable. There is no doubt that Dr. Ambedkar started from the humblest beginning, but his name will be writ large on the scroll of Indian history, and I believe not only his community, but that the country has reason to be proud of a very great son. I would ask you to convey our condolences to his family.

श्री. काजरोलकर (बम्बई नगर-उत्तर-रक्षित-अनुसूचित जातियां): अध्यक्ष महोदय, आज का दिन सम्पूर्ण भारत के लिये और विशेष करके हम हरिजनों के लिए बड़ा दुखद और अंधकार का दिन है । डा. बाबासाहेब अम्बेडकर भारत के बड़े महान नेता थे और उन्होने देश की कई रूपों में सेवा की है । देश के वे महान नेता थे ही लेकिन हम हरिजनों के तो वे प्राण ही थे और हरिजन सदा उनके ऋणी रहेंगे । उन्होंने जिन्दगी भर हरिजनों को उपर उठाने के लिए प्रयत्न किया और आज के दिन हरिजनों की जो अवस्था में सुधार हुआ है और हम कुछ ऊपर उठे है, उसका मुख्य श्रेय बाबासाहब को ही है । बाबासाहब का जन्म एक गरीब अछूत घराने में हुआ था और उनको अपने जीवन में अनेक कठिनाइयों का सामना करना पड़ा लेकिन उन्होंने हिम्मत नहीं हारी और उन्होंने सफलतापूर्वक सारी कठिनाइयों का सामना किया और उन पर विजय पाई । उन्होंने जीवन भर इस अस्पृश्यता के कलंक को हिन्दु जाति के माथे पर से हटाने का प्रयत्न किया और अस्पृश्यता निवारण के लिये घोर संग्राम किया । आखिर उन्होंने यह निश्चय किया कि मेरा जन्म तो उस हिन्दू धर्म में हुआ लेकिन मैं ऐसे हिन्दू धर्म को जो कि अस्पृश्यता को मानता है, अपना धर्म नहीं मानूगा और हमने देखा कि उन्होंने अपनी यह प्रतिज्ञा पूरी भी की । भगवान से मेरी प्रार्थना है कि उनकी आत्मा को शांति मिले और मैं समझता हूं कि उनकी आत्मा को सच्ची और वास्तविक शांति तभी मिलेगी जब कि यह अस्पृश्यता का कलंक हिन्दू जाति से मिट जायेगा ।

Shri Gadgil (Poona Central): Normally after the Leader of the house and my party has spoken, there is no justification for me to speak, but I plead this justification that I had the privilege of Dr. Ambedkar's friendship for over 35 years. He was

ten times dearer to us Maharashtrians than what he was to India as a whole. It was he who created a sense of self-respect and importance in the most down-trodden community in our area. Undoubtedly he was very bitter in his tongue, but his heart was sweet. His faults we all know, but his virtues out weighed them.

What he did in the matter of framing our Constitution is sufficiently well known. But, essentially, he was a rebel against the injustice in the *status quo,* whether the sphere was social or economic.

Lastly, he was thinking on much more progressive lines. Very recently, I had some discussion with him, and he said, 'No more privileges to the Scheduled Castes. Now, they must come into their own and fight against the injustice that is still there, along with the rest of the members of the whole Indian community.' Such a man has passed away; but, everything in this world must pass away.

Let us, therefore, remember what good he did, and deserve by what he did and progressively achieved—the objects for which he stood.

I associate myself with the sentiments expressed by other Members of this House.

Mr. Speaker: I fully associate myself with all the sentiments expressed on the floor of the house by the Leader of the House and the leaders of various groups, and I am sure the House will equally associate itself with those sentiments.

Dr. Ambedkar was a great and dynamic personality. He rose from humble beginnings and became a leader of the Scheduled Castes. He was a great scholar and writer, and, more than all, he was a powerful speaker.

He piloted our Constitution. In the field of social reform, he initiated many wholesome measures. In his death, India has lost one of her great sons. I shall convey the sentiments of this House and the condolences to the members of the bereaved family.

As a mark of respect, I am sure the House would like to adjourn today. In sorrow, we shall stand for a minute in silence.

The Members then stood in silence for a minute.

Mr. Speaker: The House will now stand adjourned as a mark of respect to him, and meet again at 11-00 a.m. tomorrow.

12-23 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Friday, the 7th December, 1956.

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SECTION VIII

ANSWERS BY DR. B. R. AMBEDKAR LAW MINISTER TO THE QUESTIONS ASKED BY THE MEMBERS OF PARLIAMENT

18TH NOVEMBER 1947

TO

28TH SEPTEMBER 1951

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SECTION VII

QUESTIONS AND ANSWERS

18th November 1947 to 28th September 1951

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(QUESTIONS AND ANSWERS)

(1)

*APPEALS FROM THE HIGH COURTS IN INDIA.

4. Shri R. R. Diwakar : (a) Will the Honourable Minister of Law be pleased to state whether appeals from the High Court in India still lie to His Majesty in Council ?

(b) If the answer to part (a) above be in the affirmative, are they governed by the same laws and regulations and rules as before ?

(c) If the answer to part (a) above be in the negative, what is the form to which appeals are to be preferred from the decisions of the High Courts in different provinces ?

(d) Are the appeals now pending before the Judicial Committee of the Privy Council to be heard and disposed of by them ?

The Honourable Dr. B. R. Ambedkar : (a) Yes.

(b) Yes.

(c) Does not arise.

(d) Yes, unless a provision to the contrary is made in the new Constitution.

Shri M. Ananthasayanam Ayyangar : What sort of Court do the present Government propose to set up for appeals from the High Court ?

The Honourable Dr. B. R. Ambedkar: That is not a matter for the Government to decide but for the Constituent Assembly.

Shri M. Ananthasayanam Ayyangar : Is the Honourable the Law Member aware that in the new set up under the present Government of India Act and the Dominion Independence Act that with regard to appeals to the Privy Council the jurisdiction of the Privy Council may be abolished and vested in the Supreme Court ? .

The Honourable Dr. B. R. Ambedkar : I do not know if the Government can take a decision when the Constituent Assembly is sitting for the purpose of defining the Constitution.

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* C.A. (Leg.) D., Vol. 1, Part I, 18th November 1947 pp. 70-71.

Shri M. Ananthasayanam Ayyangar : Did not the previous Law Member want to bring about a resolution to take action under section 299 and other sections of the Government of India Act to avoid appeals going to the Privy Council in certain matters ?

The Honourable Dr. B. R. Ambedkar : I do not know if that position remains as it was I admit that the Law Member then was proposing action as referred to by my honourable friend but there was nothing in contemplation with reference to the making of the new Constitution.

Mr. Speaker : Order, order. Will the honourable Member, Mr. Ayyangar, ask for the information ? This seems to be going into an argument.

Shri M. Ananthasayanam Ayyangar : I did ask for the information. But the honourable Member does not appear to know what has gone on before !

The Honourable Dr. B. R. Ambedkar: I said I am aware of it !

Shri M. Ananthasayanam Ayyangar : Does the honourable Member propose to take action under the present Government of India Act ?

The Honourable Dr. B. R. Ambedkar : I do not think such an action can be taken when we know that within a few months the new Constitution will be framed.

Shri K. Santhanam : Is the honuorable Member aware that if the establishment of a Supreme Court is delayed till the new Constituent Assembly there will be great transitional difficulties when the Constitution comes into force ?

Mr. Speaker : Order, order. It is a question of opinion.

(2)

*JURISDICTION OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL TO DECIDE PENDING APPEALS.

5. Shri R. R. Diwakar : (a) Will the Honuorable Minister of Law be pleased to state whether it is a fact that the Judicial Committeee of the Privy Council will have jurisdiction to entertain, hear and finally decide the appeals now pending before them and those that will be filed hereafter, so long as no changes are made in the existing enactments like the Civil Procedure Code ?

(b) What is going to be the future policy of the Dominion Government with regard to the Privy Council ?

(c) Do Government propose to consider the advisability of the early establishment of a Supreme Court with the jurisdiction of the Privy Council ?

(d) If so, what is the approximate time required for the establishment of such a Court ?

The Honourable Dr, B. R. Ambedkar : (a) Yes.

(b) The future policy of Government in regard to Privy Council appeals will generally be in accordance with the decision of the Constituent Assembly incorporated in the new Constitution.

(c) No, not until the new Constitution is brought into force.

(d) It is not possible to give an estimate at present.

Seth Govind Das : May I know if the Constituent Assembly decides that no appeals should be made to the Privy Council, what is going to happen to the appeal which have already been sent to the Privy Council before that decision is reached ?

The Honourable Dr. B. R. Ambedkar : I am sure the Constituent Assembly will make appropriate provision to cover such cases when coming to its decision.

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* C.A. (Leg.) D., Vol. 1, Part I, 18th November 1947 p. 71.

(3)

*NUMBER OF CASES TRIED BY THE FEDERAL COURT AND PRIVY COUNCIL.

8. Shri S. Nagappa : Will the Honourable Minister of Law be pleased to state :

(a) the total number of cases tried by the Federal court during the last three years—yearwise ; and

(b) the total number of the cases that have gone to the privy Council ?

The Honourable Dr. B.R. Ambedkar : (a) The total number of the cases heard by the Federal Court during the three years 1944, 1945 and 1946 was 34, 16 and respectively.

(b) The total number of Indian appeals filed in the Privy Council during the same three years was 58, 69 and 61 respectively.

Shri B. M. Gupte : May I know how many cases of appeals were reserved by the Privy Council ?

The Honourable Dr. B. R. Ambedkar: That does not arise.

Shri Biswanath Das : In view of the fact that none of the Commonwealth countries are allowing their litigant public to prefer appeals to the Privy Council, will the Honourable Minister please state whether this Government is thinking of making any interim arrangement between the decision of the Constituent Assembly on this question and the present day ?

The Honourable Dr. B. R. Ambedkar : I do not quite follow my Honourable friend's question but I can tell that the Government is examining the matter and if they find it feasible they may take interim action.

Shri Biswanath Das : May I know what is the specific question that is being examined ? My question is very clear and specific. What I said was that no Commonwealth country is allowing its litigant public to prefer appeals to the Privy Council. In view of the fact that India is one of the Common-wealth countries, will the Government please consider the question or have they considered this aspect of the question of making any interim arrangement between the decision of the Constituent Assembly and the present day ?

* C.A. (Leg.) D., Vol. 1, Part I, 18th November 1947 pp. 75-76.

The Honourable Dr. B. R. Ambedkar : I said that the Government is considering the matter and before any action could be taken Government have to see that the Federal Court becomes a Supreme Court and has got the full complement of judges to discharge the functions that will devolve on them if they were to discharge the functions of the Privy Council.

Mr. B. Poker Sahib Bahadur : Is the Honourable Minister aware that the previous Government was contemplating the question of providing appeals to the Federal Court, according to the option of the party, in addition to appeal lying to the Privy Council, in view of the fact that the Federal Court Judges had not sufficient work to do and this measure could afford to facilitate the litigant public to pursue their appeals from the High Courts ?

The Honourable Dr. B. R. Ambedkar : The whole question is being considered.

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(4)

*CONSTITUTION OF THE FEDERAL COURT.

25. Shri Phulan Prasad Varma : (a) Will the Honourable Minister of Law be pleased to state whether Government are aware that the Constituent Assembly of India has passed certain transitional provisions by which the Federal Court will be deemed to be the Supreme Court, and will be the ultimate appellate authority and new appeals will lie to the Supreme Court instead of to the Privy Council ?

(b) If the answer to part (a) above be in the affirmative, what steps have Government taken or are going to take to implement these provisions ?

(c) Are Government aware that in the traditional provision it has been laid down that the cases pending before the Privy Council will be disposed of by the Privy Council ?

(d) If the answer to part (c) above be in the affirmative, do Government propose to clarify as to what exactly is meant by the expression 'pending' ?

(e) Are Government aware that there is a great deal of uncertainty in the mind of the litigant public, Advocates and High Court Judges regarding the precise position in the matter ?

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* C.A. (Leg.) D., Vol. 1, Part I, 18th November 1947, p. 88.

(f) If the answer to part (e) be in the affirmative, do Government propose to issue a statement on the subject ?

The Honourable Dr. B. R. Ambedkar : (a) Government have seen the relevant portions of the memorandum embodying the recommendations of the Union Constitution Committee, which were subsequently adopted by the Constituent Assembly.

(b) Government cannot take any steps to implement these recommendations until a provision is included in the Constitution which is now being framed by the Constituent Assembly.

(c) No, Sir. The memorandum referred to above does not contain any such recommendation.

(d) Does not arise.

(e) Government are not aware of any uncertainty in the mind of the litigant public. They have received certain enquiries on the subject from members of the bar but these do not suggest that there is a great deal of uncertainty.

(f) The resolution adopted by the Constituent Assembly is clear enough and Government do not consider it necessary to issue any statement in regard to it at this stage.

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(5)

*REPORT OF HINDU LAW CODIFICATION COMMITTEE

236. Shri K. Santhanam : Will the Honourable Minister of Law please state—

(a) Whether the Committee on the Codification of Hindu Law has submitted its final report; and

(b) whether and, if so, when it is proposed to introduce the Bill as recommended by the Committee ?

The Honourable Dr. B. R. Ambedkar : (a) Yes.

(b) A Government Bill in exactly the same terms as the draft Hindu Code prepared by the Hindu Law Committee was introduced in the last Indian Legislative Assembly on the 11th April 1947. A motion for the continuance of the Bill has also been adopted by this House on the 17th November, 1947.

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* C.A. (Leg.) D., Vol. 1, Part I, 1st November 1947 p. 453.

(6)

*MISAPPROPRIATION OF INCOME BY HINDU CHARITABLE AND RELIGIOUS TRUSTS

397. Dr. P. S. Deshmukh : (a) Will the Honourable Minister of Law be pleased to state whether Government are aware of the extent of waste and misappropriation of the income from Hindu Charitable and Religious Trusts ?

(b) Do Government propose to consider the advisability of introducing legislation for abolishing all these Trusts so as to utilize the properties for nation-building purposes ?

The Honourble Dr. B. R. Ambedkar : (a) No, Sir.

(b) No, Sir. Quite apart from the question whether legislation abolishing all Hindu religious and charitable trusts is necessary or even desirable, such legislation falls within the provincial field under entry 34 of the Provincial Legislative List and the Central Government cannot, therefore, initiate the suggested legislation.

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(7)

**NUMBER AND NAMES OF TRIBUNALS APPOINTED BY MINISTRY OF HOME AFFAIRS

167. Shri Mohan Lal Saksena: (a) Will the Honourable Minister of Law be pleased to state how many tribunals appointed by the Ministry of Home Affairs are still functioning ?

(b) Is it a fact that many of the members of these tribunals now belong to Pakistan ?

(c) If so, what is the position of such members and have any substitutes been appointed in their place ?

(d) Do Government propose to lay on the table of the House a statement giving the following information :

(i) the names of the different tribunals ;

(ii) the number of cases tried as well as of those disposed of ; and

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* C.A. (Leg.) D., Vol. 1, Part I, 27th November 1947, p. 781 .

** *Ibid.,* p. 391-92.

(iii) the period for which each of the tribunals has worked and the costs incurred by Government in each case ?

The Honourble Dr. B. R. Ambedkar : (a) It is presumed that the honourable Member is referring to the Special Tribunals constituted under the Criminal Law Amendment Ordinance, 1943. The number of such Tribunals still functioning is four.

(b) and (c) There were three Special Tribunals with headquarters at Lahore, some members of which now belong to Pakistan. Under the Indian Independence (Special Tribunals) Order, 1947, these Tribunls and the cases pending before them were reshuffled and one of the Tribunals was assigned to West Punjab with members belonging to Pakistan and the pending cases relating to Pakistan. The other two Tribunals with members belonging to India and pending cases relating to India were transferred to India and redesignated as the East Punjab and the Bombay Special Tribunals. One new member who is required to complete the composition of the East Punjab Tribunal has already been appointed by the East Punjab Government and the two new members required to complete the Composition of the Bombay Special Tribunal are being appointed by the Bombay Government.

(d) A statement giving the information asked for is laid on the table.

STATEMENT

Name of the different Tribunals	Date from which each Tribunal is working	No. of cases tried and disposed of	No. of cases pending disposal	Cost incurred in each case
(1)	(2)	(3)	(4)	(5)
First Tribunal, Calcutta	September, 1943	66	12	Information not available
Second Special Tribunal, Calcutta.	July, 1945	Nil	1	Ditto.
East Punjab Special Tribunal (late third Special Tribunal, Lahore).	May, 1945	54*	79	Ditto.
Bombay Secial Tribunal (late second Specal Tribunal, Lahore)	February, 1945	6	2	Ditto.

*Including cases disposed of by the First Lahore Special Tribunal set up in September, 1943 which is now designated as the West Punjab Special Tribunal.

Shri M. Ananthasayanam Ayyangar : Sir, how long will the Tribunals take to dispose of the pending cases ?

The Honourable Dr. B. R. Ambedkar: I am quite unable to give any definite reply.

Shri Mohan Lal Saksena : Is it a fact that a number of cases are pending before these tribunals ?

The Honourable Dr. B. R. Ambedkar: I believe it is true.

Shri Mohan Lal Saksena : Is the Honourable Minister for Law taking any steps to expedite their disposal ?

The Honourable Dr. B. R. Ambedkar : Well, it is very difficult for a Minister of Government to expedite disposal of cases before the Tribunals. The main reason for the delay in the disposal of cases is the adjournment obtained by parties on various grounds. It is very difficult to prescribe any hard and fast rules for the grant of adjournments.

Mr. R. K. Sidhva : Are there legitimate grounds for these grant of adjournments ?

The Honourable Dr. B. R. Ambedkar : I cannot say.

Shri Mohan Lal Saksena : Is there any definite periods for which these tribunals have been appointed ?

The Honourable Dr. B. R. Ambedkar : No, Sir.

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(8)

* PROPOSAL FOR RECONSTITUTION OR MODIFICATION OF INCOME-TAX APPELLATE TRIBUNAL

287. Shri M. Ananthasayanam Ayyangar : (a) Will the Honourable Minister of Law be pleased to state whether there are any proposals for the reconstitution or modification of the Income-Tax Appellate Tribunal and, if so, what are the proposals ?

(b) Do Government propose to consider introducing Legislation for abolishing references from the Income-Tax Appellate Tribunal to the Provincial High Courts, and subsituting instead references direct to the Federal Court in all cases under the Income-Tax Act, where a reference is provided ?

*C.A. (Leg.), Vol. 1, Part I, 14th February 1948, p. 719.

(c) Do Government propose to consider raising the status of the Income-Tax Appellate Tribunal, by appointing as its chairman a person who has held office as Judge of a High Court ?

The Honourable Dr. B. R. Ambedkar : (a) No.

(b) The suggestion for making the Federal Court an original Court for References under the Indian Income-Tax Act was fully considered in 1945-46 in connection with the proposal for enlargement of the jurisdiction of the Federal Court and in pursuance of Legislative Department Resolution dated 15th January, 1945 public opinion was consulted. The opinion was overwhelmingly against the suggestion, and the late Mr. Bhulabhai Desai characterised it as highly objection able in principle and unjust to the assessees. Now that the Federal Court is the Supreme Court for civil appeals, it would be inappropriate and anomalous to make it an original Court for Income-Tax References.

(c) References on points of law lie from the Income-Tax Appellate Tribunal to the High Court and it is not necessary to raise its status by appointing as its President a person who has been Judge of a High Court. The existing status of the Tribunal is sufficiently high and care is always taken to appoint as President or Judicial Member either a senior member of the Bar or a senior District Judge, who is due to be promoted to the Bench. In fact both the previous Presidents are now serving as High Court Judges.

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(9)

*GENERAL ELECTIONS

96. Shri Deshbandhu Gupta : (*a*) Will the Minister of Law be pleased to state whether any definite dates have been fixed for the first general elections to the House of the People ?

(*b*) What progress has been made in the preparation of the electoral rolls and what steps have been taken to set up the electoral machinery ?

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* Parliamentary Debates (Hereinafter called P.D.), Vol 1, Part I, 6th February 1950, p. 79.

The Minister of Law (Dr. Ambedkar) : (*a*) No definite dates have been fixed for the first general elections to the House of the People. It is obviously too early to do so.

(*b*) As regards the preparation of electoral rolls, attention is invited to the reply given on the 9th December last to Starred Question No. 469 in the last section of the Constituent Assembly (Legislative). Some further progress has been made by the States during the last two months. The office of the Chief Election Commissioner has been set up, and that authority is expected to be appointed by the President in the near future. The preparation of a comprehensive Bill covering various matters relating to elections has also been taken in hand.

Shri Deshbandhu Gupta : Has the Minister's attention been drawn to the statement made by the Prime Minister recently that elections would be held by the end of 1950 ? May I know if that is the decision of the Government and, if so, whether the progress made in the preparation of electoral rolls, etc., is sufficient for holding the elections in 1950 ?

The Prime Minister (Shri Jawaharlal Nehru) : My statement was "during the next winter", not by the end of this year : but 1950-51 winter.

Shri Tyagi : What arrangements are being made to hold bye-elections in the various States for seats which have fallen vacant during the last six or seven months ?

Dr. Ambedkar : This is a matter which is left to the Governors of the Provinces and they are also under such orders as the President is authorised by the Constitution to give in this behalf.

Shri Vyas : Have Government given any special attention to get the electoral rolls prepared in the case of such States where there are no Legislatures at present ?

Dr. Ambedkar : Certainly.

Shri Bharati: May I know if it is a fact that the Government of India have asked the Provinces and States to give their opinion

regarding the desirability of holding the elections after the 1951 census so as to have a breathing time ? I understood from the papers that the Government of India have asked various States as to their opinion regarding the advisability of holding the general elections after the 1951 census.

Dr. Ambedkar : I am not aware of any such proposal.

Shri Tyagi: Have instances come to the notice of the Government of seats which had fallen vacant months ago in various States and which have not yet been filled up ?

Dr, Ambedkar : That is a matter for the Provinces.

Shri Deshbandhu Gupta : Is the Hon. Minister aware of the fact that assurances were given by the Deputy Prime Minister to the Constituent Assembly that in certain areas like East Punjab, Delhi and perhaps Bombay or West Bengal fresh elections will be based on a fresh census ? If so, what steps are being taken by the Government to have a census in these areas before the electoral rolls for the new elections are prepared.

Dr. Ambedkar : I do not think that is a correct statement of facts.

Shri Dashbandhu Gupta : May I draw the Prime Minister's attention to the question and the reply of the Hon. Law Minister and ask him whether it is a fact or not that the Deputy Prime Minister had given an assurance ?

Mr. Speaker : The Hon. Minister has already replied to the question.

Shri Deshbandhu Gupta : He says that it is not a fact. I want the Prime Minister to say whether it is a fact or not. The assurance is on record.

Shri Kamath : Has the Hon. Minister's attention been drawn to a United Press of India report from Madras that the Government of India in a communication addressed to the State Governments have asked them whether it would be convenient for them if the elections to the Legislatures of the States are held a few months after the 1951 census is over ?

Dr. Ambedkar : I am not aware of it.

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(10)

*LIST OF SCHEDULE CASTES

806. Prof. Yashwant Rai : Will the Minister of Law be pleased to refer to Article 341 of the Constitution and state :

(a) Whether it is a fact that many castes are anxious to know their inclusion in the list of the Scheduled Castes ; and

(b) if so, what steps have been taken by Government in this direction and when the list of the Castes included in the Scheduled Castes will be announced ?

The Minister of Law (Dr. Ambedkar) : (a) and (b) As required under article 341 of the Constitution, the Governors and *Rajpramukhs* of States have been consulted with regard to the castes, races or tribes etc., which are to be specified as Schedule Castes for the purposes of the Constitution and their views and suggestions are at present being examined. This examination is expected to be completed soon, and thereafter the Notification specifying the Scheduled Castes will be issued.

Prof. Yashwant Rai : May I know, Sir, how long will the Government take to announce the list ?

Dr. Ambedkar : I have said 'soon'. I am sure it will not take very long.

Shri Rathnaswamy : May I know the basis on which the Government comes to a decision in regard to the inclusion of castes ?

Dr. Ambedkar : The question is not clear. We have got the schedule under the Government of India Act, 1935; In addition to that, we have addressed queries to Provincial Governments as to their opinion regarding the inclusion of certain other castes. After their opinions are received, the lists will be finalised.

Dr. M. M. Das : May I know whether in the coming census the Scheduled Castes will be marked as Scheduled Castes ?

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*P. D., Vol. 1, Part I, 13th March 1950 p. 791.

Dr. Ambedkar : I suppose so.

Sardar B. S. Man : I want to know whether the lists proposed to be compiled will be uniformly applicable to all the States in the country or whether they will differ from State to State ?

Dr. Ambedkar : It cannot be. It is always a provincial list.

Shri Buragohain : May I know whether the list of Scheduled Tribes is also under examination ?

Dr. Ambedkar : Oh, Yes.

Shri Tyagi : Is it the intention of Government to exclude from the list castes that have progressed to the level of the so-called Caste Hindus ?

Dr. Ambedkar : The Scheduled Castes have been always untouchables. Nothing less.

Shri Tyagi : Is it the intention of Government to revise the lists so as to exclude those castes that do not have the disability of untouchability after the progress they have made ?

Dr. Ambedkar : The procedure for revising the Schedules is provided in the Constitution. It can be done by parliamentary legislation.

Shri Naik : May I know whether any steps have been taken by the Government to implement article 340 of the Constitution ?

Dr. Ambedkar : The appointment of a Commission is a separate matter. That is also under consideration.

Shrimati Durgabai : Since untouchability has been banned by the Constitution, can it still form the basis of exclusion or inclusion ?

Shri Barman : Is it contemplated to publish a provisional list before the final list is published ?

Dr. Ambedkar : It is not contemplated, because the power is given to the President to issue the list.

(11)

*CENTRAL WOOLLEN TECHNOLOGICAL INSTITUTE

The Minister of Law (Dr. Ambedkar) : (*a*) It is too early to estimate what will be the total cost of the general elections under the Constitution. On the basis of information available so far, the Central is to pay to Part A and Part B States a sum of Rs. 1.18 crores for expenditure during 1949-50 and Rs. 1.34 crores during 1950-51. These amounts mostly relate to expenditure on the printing and preparation of the electoral rolls.

(*b*) The extra cost incurred by the States Governments in connection with the preparation and printing of the electoral rolls, will be borne by the Central Government and the State Governments on a half and half basis. The extra costs incurred by the State Governments in connection with the actual conduct of elections to the House of the People will be met entirely by the Central Government if the elections to the House of the People are held independently of the elections to the Legislative Assemblies of the States, but such extra costs will be borne by the Central Government and the State Governments on a half and half basis if the elections to the House of the People and the State Assemblies are held simultaneously. The term "extra costs" means the expenditure incurred by the State Government in the preparation and printing of the electoral rolls or in the conduct of elections, but not including any share of the existing State establishments. In other words, in computing the extra costs, no share of the salaries of the existing officials of the State Governments will be taken into account.

Shri Nandkishore Das : May I know if the printing of the electoral rolls has been finished ?

Dr. Ambedkar : No. They are different stages in different States.

Shri Nandkishore Das : May I know if the expenditure in connection with the elections to the Central Parliament will include the expenditure in connection with the Election Commissioner and his office ?

* P. D., Vol. 4, Part I, 21st March 1950, p. 964.

Dr. Ambedkar : No. This is a separate charge.

Shrimati Durgabai : May I know whether the Election Commission that is contemplated under the Constitution has been set up ; if not, when is it likely to be set up ?

Dr. Ambedkar : I think the Election Commissioner has been appointed. He is probably either taking charge today or has already taken charge yesterday.

Shri Tyagi : May I know what is the position with regard to by-elections to State Legislature today—will they be held on the previous electoral rolls or on the fresh ones ?

Dr. Ambedkar : On the existing rolls which will be in operation on the date of the election.

Shri T. T. Krishnamachari : May I ask if the Election Commissioner who has been appointed and who is going to take charge in a few days' time is designated as the "Chief Election Commissioner" ? If that is so, are other Election Commissioners going to be appointed ; if so, how many ?

Dr. Ambedkar : Government have not come to any decision on the latter part of the question.

Shrimati Durgabai : May I know what is the precise scope of work of this Commissioner ?

Dr. Ambedkar : That has already been defined in the Constitution.

Shri Kamath: Is the Law Minister in a position to state whether the General Elections will be held before or after the completion of the decennial census ?

Dr. Ambedkar : I do not want to commit myself, but I suppose the position is that the decennial census may in some cases have a very crucial effect on the preparation of the electoral rolls and also in the matter of assigning seats. So it may precede.

Shri A. P. Jain : May I know when the last electoral roll in any State is expected to be printed ?

Dr. Ambedkar : What is the question ? I want to know what my friend means by "printed" —printed as the provisional list or revised, list or final list ?

Shri A. P. Jain : As the final list.

Dr. Ambedkar : It is very difficult really to give any precise date, but we hope that it will be ready sometime in January next or February.

Seth Govind Das : By what time is the election budget expected to be ready ? Will it be placed before the Parliament ?

Dr. Ambedkar : I could not follow.

Mr. Speaker : Whether it would be possible to have the estimate of the election expenditure prepared by the time the next Budget is presented and whether that estimate will be placed before Parliament.

Dr. Ambedkar : It will be part of the Appropriation Act.

Seth Govind Das : By what time is it expected to be ready ?

Mr. Speaker : Order, order.

Prof. Ranga: Are Government placing before themselves as well as the State Governments any target date by which these lists should be prepared, scrutinised and finalised ?

Dr. Ambedkar : Yes.

Prof. Ranga : What is that date ?

Dr. Ambedkar : I am not informed about it, but as I said we hope that the final electoral rolls will be ready somewhere about the early part of next year.

Shrimati Durgabai : May I know whether matters connected with the elections such as those of delimitation of constituencies and the question of bilingual areas also would fall within the scope of this Election Commissioner's work ?

Dr. Ambedkar : Bilingual areas ?

Shrimati Durgabai : Delimitation of constituencies ?

Dr. Ambedkar : Certainly, they will be dealt with. But I may say that I am proposing to introduce a Bill in this Session to be called the "Representation of the People Bill", which will make provision for the exercise of the powers which are vested in the Election Commissioner, so that he can proceed with the matter.

Shri A. P. Jain : May I know, according to the programme at the moment under contemplation of Government, how much time will it take for the final elections to be held after the electoral rolls have been completed ?

Dr. Ambedkar : I do not like to speculate.

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(12)

*INCOME-TAX APPELLATE TRIBUNALS

1106. Lala Raj Kanwar : Will the Minister of Law be pleased to lay on the Table a statement showing :

(*a*) The number of Income-Tax Appellate Tribunals functioning in the country and the personnel of each such Tribunal ?

(*b*) How many cases have been instituted and disposed of by these Tribunals during each of the last three years ?

(*c*) What is the number of cases now pending before each of these Tribunals ?

The Minister of Law (Dr. Ambedkar) : A statement is placed on the Table. (See Appendix V, Annexure No. 55). (not produced hered)

Lala Raj Kanwar : What steps do Government propose to take to expedite disposal of the pending cases ?

Dr. Ambedkar : I think the disposal is more or less satisfactory. If it is not satisfactory, Government will institute more Tribunals.

Shri T. T. Krishnamachari : May I ask if the salary to be paid for the Members of the Tribunal has been reduced or re-graded recently ?

Dr. Ambedkar : I require notice.

Shrimati Durgabai : May I know how appointments to these Tribunals are made ?

Dr. Ambedkar : They are made by the Public Service Commission.

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* P. D., Vol. 4, Part I, 24th March 1950, p. 1059.

(13)

* SCHEDULED CASTE EMPLOYEES IN MINISTRY OF LAW

123. Prof. Yashwant Rai: Will the Minister of Law be pleased to state :

(a) the number of persons belonging to the Scheduled Castes in each of the following categories in the Ministry of Law :

(i) Gazetted Officer (ii) Superintendents and Assistants and (iii) Senior Grade and Junior Grade clerks and Stenographers ;

(b) whether the number is not as reserved for scheduled castes ; and

(c) what special steps Government propose to take to fill in the reserved quota in the spirit of Articles 335 of the Constitution of India ?

The Minister of Law (Dr. Ambedkar) : (a) The number of persons belonging to the Scheduled Castes in the Ministry of Law is as follows :

Gazetted Officers	...	...	...	Nil
Superintendents	...	...	...	Nil
Assistants	...	...	...	2
Senior Grade Clerks	...	...	...	Nil
Junior Grade Clerks	...	...	...	3
Stenographers	...	...	...	1

(b) The number is not up to the percentage reserved for the Scheduled Castes in the categories to which the reservation, rules apply.

(c) Attention is invited to paragraph 5 and the second and third sub-paragraphs of paragraph 7 of section II of the Review of the Activities of the Home Ministry for the year 1949.

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* P. D., Vol. 4, Part I, 24th March 1950, p. 1067.

(14)

*ADVISORY COMMITTEE ON HINDU CODE BILL

1352. Shrimati Ammu Swaminadhan: Will the Minister of Law be pleased to state whether any representatives of women's Organisations have been taken or are proposed to be taken on the non-official Advisory Committee to advise on the Hindu Code Bill ?

The Minister of Law (Dr. Ambedkar) : I take it that the reference is to the informal Conference proposed to be held for the ascertainment of representative public opinion both in and outside Parliament, on the Hindu Code Bill, in accordance with the announcement made by the Hon. the Prime Minister on the floor of the House on 19th December 1949 during the discussion on the Bill. It is the intention of Government to make the Conference as representative in character, as possible and the Conference will certainly include representatives of women's organisations.

Shrimati Ammu Swaminadhan : In view of the fact that the Hindu Code affects the women of the country more than the men (Laughter), Sir, I would like to ask for your protection in this matter. Every time that any question of women's rights comes up in that House, there is general laughter, as if it is a joke. I do not mean it as a joke. I would like the Hon. the Law Minister to tell us whether in view of the fact that the Hindu Code really affects women very largely and there are several women's organisations in India, they have been asked to send representatives to this Advisory Committee that is going to be called very soon.

Dr. Ambedkar : That is what the answer says.

Shrimati Ammu Swaminadhan : May I ask him for the names of the women's organisations from which he has invited representatives to come to this Advisory Committee ?

Dr. Ambedkar : I am afraid I do not carry the names in my head but my intention was really to call women's organisations which were, so far as our information went, not very favourable to the Code.

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* P. D., Vol. 1, Part I, 3rd April 1950, p. 1267.

Shrimati Ammu Swaminadhan : May I ask when this Conference is going to be held ?

Dr. Ambedkar : I believe on the 14th of this month.

Shri Deshbandhu Gupta : May I know whether, such Members of the House have also been invited, as are opposed to the Code ?

Dr. Ambedkar : The Conference is divided into three parts. There are members who represent the Select Committee and members who represent the House. There are others who neither represent the House for the Committee ; they are outsiders.

Shri B. Das : May I know whether the Hon. the Law Minister will advise the Government to hold a special Session of this House to pass the Hindu Code Bill ?

Dr. Ambedkar : It is not necessary to anticipate it....

Mr. Speaker : Order, order. I will not allow that question.

Shri Deshbandhu Gupta : May, I know whether the Hon. Minister has received representations from several quarters suggesting that the conference should be postponed for a few days in view of the Kumbha Mela to enable those who may be going there at the time to attend ?

Dr. Ambedkar : I have not received any representations but I have seen some statements in the newspapers.

Shri M. A. Ayyangar : May I ask the Hon. Minister as to what principle he adopted in choosing Members from the Select Committee ? Did he try to eschew those people who said anything against the Code ?

Dr. Ambedkar : I do not think I had any prediliection in my mind one way or the others.

Shri M. A. Ayyangar : May I know how many of those whom he selected from the Select Committee are in favour of the Bill, how many against it, and how many doubtful ?

Dr. Ambedkar : I think some were in favour, some were doubtful and some were opposed to it.

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(15)

*SALARY AND ALLOWANCES OF THE MEMBERS OF PARLIAMENT

726. Maulvi Wajed Ali : Will the Minister of Law be pleased to state whether in view of Article 106 of the Constitution, Government propose to bring forward a Bill to provide for the salary and allowances of the Members of Parliament in the near future ?

The Minister of Law (Dr. Ambedkar): No, Sir. In view of the latter half of the Article referred to by the Hon. Member, Government do not see any need for bringing forward a Bill to provide for the salary and allowances of Members of Parliament. The existing position appears to be satisfactory.

Maulvi Wajed Ali: Is it not a fact that the article does not specify anything about the present Parliament ? My question is also about the future House of the people which the Hon. Minister contemplate in his proposed Bill.

Dr. Ambedkar : I have not seen any formal expression from this House that the present practice is unsatisfactory.

Shri Brajeshwar Prasad: Is there any proposal before the Government to substitute I class railway pass for the present railway travelling allowance ?

Dr. Ambedkar : It is a suggestion which may be considered.

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(16)

**GENERAL ELECTIONS

5. Shri Kamath : Will the Minister of Law be pleased to state:

(a) the progress so far made in respect of the preparation of electoral rolls and delimitation of constituencies in each of the Part A, Part B and Part C States ; and

(b) the firm date for the holding of general elections under the new Constitution ?

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* P. D., Vol. 1, Part II, 15th April 1950, p. 1557.

**P. D., Vol. 6, Part II, 15th November 1950, p. 12.

The Minister of Law (Dr. Ambedkar): (a) A statement is laid on the Table (See Appendix I, Annexure No. 4).

(b) This question has been dealt with yesterday in the Presidents opening address.

Shri Kamath : Is it a fact, Sir, that in the President's Order issued some time in October the total population of Scheduled tribes in Part A and Part B States of the Indian Union has been given as 179 lakhs or so while according to the Census of 1941 the total population of Scheduled tribes in those States is about 248 lakhs ?

Dr. Ambedkar : This question should be addressed to the hon. the Home Member.

Dr. Deshmukh : May I know if the Hon. Minister of Law is aware that according to the present arrangement, considerable hardship would be caused to a Scheduled Caste candidate and whether he is intending to take any steps by which this double constituency which is likely to fall to the share of the Scheduled Caste and the Scheduled Tribes candidates would be reduced to a single constituency.

Dr. Ambedkar : That is a matter which undoubtedly will be dealt with by the House when the Order dealing with constituencies will be placed before the House.

Prof. Ranga: Is it absolutely incumbent according to the Constitution to have the elections for the Parliament—the House of the People and also for the State Legislatures—simultaneously ?

Dr. Ambedkar : That would be a matter which would be dealt with on the basis of convenience by the Election Commissioner.

Sardar B. S. Man: May I know for the purposes of delimitation of constituencies whether the results of Census which is shortly to be taken in 51 will be taken into consideration or the present figures of 1941 will be considered ?

Dr. Ambedkar : I think under the Constitution, the provision is that the election is to take place within three years from the date of the provisional Parliament. The old Census may be taken, subject to the fact that in certain Provinces like the Punjab and West Bengal the population may be estimated by the President on the basis of the voting strength.

Shri Kesava Rao : May I know whether the Government has received any representations from the minority communities for having plural Member constituencies for them ?

Dr. Ambedkar : May I know what complaints have been received by the Election Commission, but I may say that I have received various representations relating to that matter.

Dr. Deshmukh : May I know if the complaints of castes which have been omitted from the President's Order for the first time are going to be considered by Government ?

Dr. Ambedkar : It cannot be considered now. The provision in the Constitution is that whereas the Order is made by the President enumerating the various castes and tribes, the Government is excluded from any further action. The matter is left for Parliament to be death with.

Shri Tyagi: When does the Hon. Minister propose to introduce the People's Representation Bill in its final shape and place the electoral rules before this House ?

Dr. Ambedkar : The Bill certainly I am placing before the House during the course of this session, but I do not know what my hon. Friend means by "rules".

Shri Tyagi: I mean rules of election.

Dr. Ambedkar : Well, I do not know whether the rules of election would be framed unless and until we pass this Act.

Shri R. K. Chaudhari: Is it a fact, Sir, that the population as determined by the hon. the President has been open to very serious objection on the ground that the determined population has been less in some instances than the census of 1941 and as it was determined on the number of voters as on the voting list which has been found to be defective, is there any likelihood of the revision of the determined population ?

Dr. Ambedkar : That question ought to be addressed to the Hon. the Home Minister.

Shri Chandrika Ram : May I know how many States have been able to delimit the constituencies for Scheduled Castes and Scheduled Tribes ?

Dr. Ambedkar : I do not think the delimitation of constituencies for the Scheduled Castes is a matter which is dealt with separately from the delimitation of the general constituency.

Shri Kamath : In view of the fact that the date of the General Elections has now been postponed from April-May to November-December, 1951, will there be any change in the qualifying date and qualifying period for the voters ?

Dr. Ambedkar : Unless the Act that has already been passed is amended, we could make no change.

Mr. Speaker: I think we will go to the next question.

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(17)

*GENERAL ELECTIONS

134. Shri Deshbandhu Gupta: (a) Will the Minister of Law be pleased to state whether Government have finally fixed the month for the next General elections and if so, what is the month ?

(b) Will the elections be held simultaneously for the Parliament and Legislature of States ?

(c) What opinions have been expressed by each State Government on the subject ?

(d) What is the total number of voters for the House of the People, the Council of States and States Legislatures respectively enrolled and when will the electoral rolls be finally published ?

(e) What is the estimated expenditure which will be incurred on the elections ?

(f) How many officers will be employed for the purpose and for what period ?

The Minister of Law (Dr. Ambedkar): (a) This part of the question has been dealt with in the President's opening address on the 14th November, 1950.

(b) Elections are proposed to be held simultaneously for the House of the People, Constituencies in a State and the

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* P. D., Vol. 6, Part I, 20th November 1950, p. 138.

Legislative Assembly constituencies, if any, of that State. Elections to the State Legislative Councils will also be held about the same time, but it may not be exactly at the same time.

(c) The States are all in favour of holding the elections to the House of the People and the State Legislative Assemblies simultaneously.

(d) The electorate for the House of the People and the Legislative Assemblies of the States are the same. A statement is laid on the Table giving the total number of voters for the House of the People so far enumerated. (*See* Appendix I, Annexure No. 29).

Figures in respect of supplementary voters are still awaited from Uttar Pradesh, West Bengal, Bhopal, Bilaspur, Coorg and Himachal Pradesh, the electorate for the seats allotted to Part A States and Part B States (except Jammu and Kashmir) in the Council of States is 3,055. The method of election to fill the seats in the Council of States allotted to Part C States is to be determined by Parliament and it is proposed to introduce during the current session a Bill to amend the Representation of the People Act, 1950 for this purpose. The electoral rolls for the Legislative Councils in Part A States and in Mysore are still under preparation and it is not possible to give any idea as to that electorate. Electoral rolls will be finally published as soon as constituencies have been delimited and claims and objections to the preliminary rolls have been disposed of. This is expected to be late in January, or early in February, next.

(e) On a rough estimate, the total expenditure that has so far been incurred, and may hereafter be incurred by the Government of India in connection with the elections may be about 520 lakhs; and the total expenditure for all the State Governments may be about 490 lakhs.

(f) If the hon. Member is referring to officers who will be employed for the actual conduct of elections, it is not possible at present to estimate their number or the period for which they will have to be employed for the purpose.

Shri Deshbandhu Gupta: May I know whether complaints have been received from various States as to omissions or incorrect entries—a large number of them—in the electoral rolls, and if so what steps have been taken by Government to remove these defects ?

Dr. Ambedkar : Well, really speaking, that is a matter which must be within the cognizance of the Election Commissioner, and I am sure if any irregularities have been reported to the Election Commissioner, he will exercise his powers to set them right.

Shri Deshbandhu Gupta: Has it come to the notice of the Election Commissioner or the Government that in the State of Delhi itself as many as 40,000 women are required to file objections to get themselves enrolled as voters for the simple reason that they have been enrolled as "Mrs. so-and-so" or "Miss so-and-so"?

Dr. Ambedkar : It is possible.

Shri Deshbandhu Gupta: Sir, in view of the fact that the elections have now been postponed, will Government consider the desirability of getting such incorrect entries corrected of its own accord, rather than require the objectors to file objections ?

Dr. Ambedkar : I shall convey the suggestion to the

Mr. Speaker : Order, order. It is a suggestion for action.

Shri Syamnandan Sahaya : In view of the fact that the Constitution lays down that there is to be adult franchise, will Government please state whether they shall take into consideration the results of the next census in the matter of drawing up the electoral rolls ?

Dr. Ambedkar : It is not necessary, as it is provided in the Constitution that if the elections take place within three years of the inauguration of the Constitution, the population of 1941 census may be taken into account, or in certain other cases the population may be determined by the President by order.

Mr. Deshmukh : Is the Hon. Minister aware that in some States the price proposed for the voters' list is exorbitant and may I know whether Government would issue any orders to the effect that these lists should not be so very costly ?

Dr. Ambedkar: I have heard that this matter has been agitated in some of the local Assemblies, and I hear some State Governments have already reduced the price of the electoral rolls.

Shri T. N. Singh: May I know whether the word "simultaneously" used by the Hon. Minister in his reply means that all the elections will be held on one day in all the different States or whether it will be spread over three or four days ?

Dr. Ambedkar: It should take place on the same day for expenditure to be economised.

Shri R. Velayudhan: May I know if, any final date has been fixed for the Delimitation Committees to submit their reports ?

Mr. Ambedkar: I think the date was at one time fixed, as it was the intention of the Election Commission to submit the Election Constituency Order to the President and place it before this House in this Session. But in view of the fact that the date of the election has been postponed, probably he desires to have more time in order to enable him to prepare the constituencies more in consonance with the facts of the case.

Shri K. Vaidya: Sir, should not the elections take place in April in the case of States where there is no legislature at all ?

Dr. Ambedkar: If my friend will resume his seat I will give the reply. So far as the House of the People is concerned, the Legislature of the State is not involved, because the election is by the people. Where there are Upper Chambers, there, by the Bill which I am presenting to the House to-day they are making provisions for election in such States where Legislatures do not exist.

Shri Dwivedi: Sir, may I know whether any minimum qualifications are to be fixed for persons standing for elections ?

Dr. Ambedkar: That matter is under debate by a Resolution moved by Prof. K. T. Shah.

Shri Radhelal Vyas: In view of the fact that the general elections have been postponed by one year, will the qualifying date

and the qualifying period also be changed by suitable amendments to the People's Representation Act ?

Mr. Speaker: It is to be the subject of discussion in this House.

Shri Deshbandhu Gupta: Sir, may I know whether, it is correct that some device has been found out to detect impersonation ?

Dr. Ambedkar: Yes, I hear our scientific laboratories are finding out some kind of device.

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(18)

*GOVERNMENT AGENTS FOR SUPREME COURT

442. Shri Raj Bahadur: (a) Will the Minister of Law be pleased to state whether any agency or machinery has been set up under the auspices of the Government to act as solicitors or agents for or on behalf of the Central and the State Governments for the Supreme Court of India ?

(b) If so, what were the reasons and necessity for creating such agency or machinery ?

(c) What is the amount of money to be spent by the Government of India and the State Governments respectively on the creation and maintenance of the said agency or machinery ?

(d) How has the creation of such an agency or machinery affected the efficiency or execution of work ?

The Minister of Law (Dr. Ambedkar): (a) Yes.

(b) With the abolition of the jurisdiction for the Privy Council over Indian cases and the establishment of the Supreme Court on the commencement of the new Constitution, the volume of work in connection with cases coming up before the Supreme Court concerning the Central and State. Governments increased enormously. Novel and intricate problems of law arose in such cases by reason of the great constitutional changes that had taken place. It was considered that, in order to achieve best results before the highest

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* P. D., Vol. 6, Part I, 28th November 1950, p. 410.

tribunal in the land, all matters before the Supreme Court, civil and criminal, in which the Government of India or any of the State Governments were interested, should be handled by a central agency, composed of personnel experience in Federal Court practice and procedure, conversant with Government administration, and familiar with the new Constitution. When the proposal was put to the Governments of Part A and part B States, it was accepted by 10 of them.

(c) The approximate expenditure on the Central Agency is estimated to be Rs. 47,600 for the current financial year and Rs. 87,400 for the next financial year. The expenditure is to be shared between the Government of India and the Governments of the participating States in proportion to the number and nature of the cases handled on behalf of each Government. The amounts payable by the participating Governments for the current year can only be estimated at the end of the year.

(d) Before the Central Agency section was created, the Agency work of the Central Government was done by one of the Government Solicitors in addition to his normal advisory work in the Solicitor's Branch, and each Provincial or State Government made its own arrangements. The setting up of a centralised agency will naturally lead to economy and efficiency, particularly from the point of view of the State Governments. It also secures greater co-ordination between the States *inter se* and the Central Government on various constitutional questions coming up before the Supreme Court.

Shri Raj Bahadur: May I know whether any of the States disapproved or rejected the proposals ?

Dr. Ambedkar : Well, I do not know which States expressly disapproved, but, as I said, ten have agreed; Assam, West Bengal, Madras, Punjab and Uttar Pradesh have not joined the scheme. They might join hereafter.

Shri Raj Bahadur: May I know the number of States which have not given specific acceptance of the proposal ?

Dr. Ambedkar : As I said, evidently those who have hot joined the scheme have either expressly said that they do not want to join or have merely postponed their decision—I am unable to say at this stage.

Shri Raj Bahadur: So far as the financial side is concerned, how does the expenditure which is to be incurred now compare with the expenditure which was being incurred up to now ?

Dr. Ambedkar : There is no basis for comparison because such an agency did not exit before.

Shri Raj Bahadur: Why I know whether the opinion of local solicitors and agents was taken or not?

Dr. Ambedkar : There is no necessity. We took the opinion of the Governments.

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(19)

*MUSLIM PERSONAL LAWS

561. Dr. M. M. Das : (a) Will the Minister of Law be pleased to state the States of the Indian Union where the Muslim Personal Laws (Shariat) Application Act of 1937 is not in force ?

(b) Is it a fact that Muslims of the Indian Union are governed by the same Personal Laws viz., the Shariat?

(c) Did Government receive any representation from the Muslims of Coach-Behar or ascertain their opinion before the Government of West Bengal replaced their existing Personal Laws by Shariat ?

The Minister of Law (Dr. Ambedkar): (a) and (b). The Muslims Personal Law (Shariat) Application Act of 1937 is not in force in Part B States and in the merged territory of Cooch-Behar in West Bengal. It is in force in the rest of India. So far as Cooch-Behar is concerned, provision has been made in clause 3 of the Cooch-Behar (Assimilation of Laws) Bill which is pending before this House, for bringing the Act of 1937 into force in that area. The position in Part B States appears to be that Muslims are in the main governed by

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* P. D., Vol. 6, Part I, 1st December 1950, p. 536.

Shariat, but subject to variations introduced by established custom or usage or by local laws.

(c) So far as I am aware, the Government of West Bengal have done nothing to alter the personal law applicable to Muslims in Cooch-Behar. After the Cooch-Behar (Assimilation of Laws) Bill is passed by this House and is brought into force, that Government will, in due course and after due consideration, bring the Muslim Personal Law (Shariat) Application Act of 1937 into force in Cooch-Behar under clause 3(2) of the Bill.

Dr. N. M. Das : May I know whether the Hon. Minister of Law thinks it necessary and advisable to ascertain the opinion of the Cooch-Behar Muslims about the change that will be introduced by the West Bengal Government ?

Dr. Ambedkar : That matter is left to the West Bengal Government.

Shri Syamnandan Sahaya: Is there any proposal pending the consideration of the Government for bringing before this Parliament a Muslim Code also?

Dr, Ambedkar: No.

Shri Tyagi : Is it the intention of Government to bring a law to regulate the Muslim Law in India also and to effect reforms in respect of the system of polygamy that is prevalent amongst Muslims ?

Mr. Speaker: That question was put and answered.

Shri Tyagi: I want to know whether it is the intention of Government to effect reforms in the previous Muslim Law ?

Mr. Speaker: There is no intention of bringing a Muslim Code. That is what the Minister said and it covers all points.

Shri A. C. Guha: Have Government under contemplation any proposal to bring a uniform civil law for all Commuinities, according to our Constitution ?

Dr. Ambedkar : I have very much the matter at heart; but I have no time.

(20)

* ENGAGEMENTS OF LAWYERS IN CASES AGAINST THE UNION

709. Shri Kazmi: Will the Minister of Law be pleased to state :

(a) the procedure for the engagement of legal practitioners in the procedings in Courts of the cases against the Union of India;

(b) whether the remuneration; and

(c) whether the Attorney General for India, the Advocate General of State or Government Pleader of locality is consulted on such appointments, and if not, what are the reasons therefor ?

The Minister of Law (Dr. Ambedkar): (a) In all Part A States, the legal business of the Central Government is generally undertaken by the State Governments, by mutual agreement, and is conducted by the Legal Remembrancer of the State and other law officers under his control such as the District Government Pleaders. In the Presidency towns of Bombay and Culcutta we have our own Solicitors to attend to this work. Certain departments like the Railway and Incom-tax Departments also make their own arrangements for conducting their cases in the courts. The Central Government have appointed all District Government Pleaders in Part A States as Government Pleaders in relation to any suit by or against the Central Government, excluding cases relating to railways. No standing arrangements have yet been made in Part B States, while in Part C States, the Chief Commissioners are authorised to make the necessary arrangements.

(b) Except where special rates are agreed upon, the Government Pleaders conducting the Central Government cases are paid fees at the same rates as are admissible to them for conducting cases on behalf of the State Governments which employ them.

(c) As stated in the reply to part (a) of the question, as a general rule, the District Government Pleaders also act as

* P. D., Vol. 6, Part I, 6th December 1950, p. 694.

Government Pleaders in cases against the Government of India in Part A States and hence the question of consultation in making the appointment of such Pleaders does not arise.

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(21)

*SCHEDULED CASTE REPRESENTATIVES

814. Shri Jangde : Will the Minister of Law be pleased to state whether the number of Scheduled Caste Members to the House of the People from Madhya Pradesh is being determined on the basis of the 1941 census ?

The Minister of Law (Dr. Ambedkar): The number of seats to be reserved for the Scheduled Castes from Madhya Pradesh, or for the matter of that, any Part A State or Part B State, in the House of the People will be determined on the basis of their population as estimated by the Census Commissioner under the provisions of the Constitution (Determination of Populations) Order, 1950, made by the President under article 387 of the Constitution. The population has been estimated by the Census Commissioner as on the 1st March 1950, and has already been notified *vide* Home Ministry's Notification in a *Gazette Extraordinary* dated the 14th September 1950.

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(22)

**DELIMITATION OF COMMITTEE REPORTS

817. Shri Deogirikar: (a) Will the Minister of Law be pleased to state how many States have submitted the Delimitation Committee reports so far ?

(b) Will those Constituencies be accepted as final or will they undergo changes and if so, when and who will make the changes ?

The Minister of Law (Dr. Ambedkar): (a) Proposals for the delimitation of constituencies for the House of the People and the Legislative Assemblies of States have been received

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*P. D., Vol. 6, Part I, 11th December 1950, p. 804.

**_Ibid.,_* p. 805.

by the Election Commission from all States except that West Bengal's proposals for the Legislative Assembly of the State have not yet been received. The Parliamentary Advisory Committee for the following States have sent their reports :

Assam, Bombay, Orissa, Hyderabad, Travancore-Cochin, Saurashtra, Delhi, Vindhya Pradesh, Bhopal, Tripura and Manipur.

(b) The procedure for making the Order delimiting the constituencies is contained in section 13 of the Representation of the People Act, 1950. the Election Commission shall, in consultation with the Delimitation Advisory Committee set up in respect of each State, formulate proposals as to the delimitation of constituencies in that State and submit such proposals to the President for making the Order as to such delimitation. It is open to the Election Commission to amend or vary the proposals of the Delimitation Advisory Committees. The President also can amend or vary the proposals submitted by the Election Commission, and every such Order made by the President shall be subject to such modification as Parliament may make when it is laid before it.

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(23)

*GENERAL ELECTIONS

1052. Prof. S. N. Mishra: (a) Will the Minister of Law be pleased to state the approximate expenditure to be incurred by the Government in the next elections ?

(b) How many representations have been made to the Government for holding elections in April-May and how many against it ?

The Minister of Law (Dr. Ambedkar): (a) Attention is invited to my reply given on the 20th November, 1950, to part (e) of starred question No. 134 asked by Shri Deshbandhu Gupta.

(b) According to information available, in all eleven representations have been received, out of which ten are against holding elections in April-May 1951, and one

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* P. D., Vol. 6, Part I, 19th December 1950, p. 1034.

against the postponement of the elections to November-December 1951.

Prof. S. N. Mishra : May I know what were the main reasons for postponing the elections to November-December 1951?

Shri Dwivedi: May I know whether Government are going to ban party and religious flags during the elections ?

Dr. Ambedkar : I suppose that everything that is necessary to ensure fair elections will be done.

Shri Joachim Alva: Is Government devising any machinery of propaganda by which elections may be run on proper lines and malpractices may be avoided ?

Dr. Ambedkar : I think that it had better be left to the political parties themselves.

Shri Jainarain Vyas : Will Government impose any levy on the different States to meet the election expenditure ?

Dr. Ambedkar : Yes. There has already been an agreement between the Centre and the various States as to the proportion in which the election expenses would be borne.

Dr. M. M. Das: May I know whether any State Government has sent any deputation and if so, what is the result ?

Dr. Ambedkar : Deputation for what ?

Dr. M. M. Das: For postponing the elections.

Dr. Ambedkar : No. I do not remember to have received any deputation.

Shri R. Velayudhan: Which is the single State which has protested against the postponement of the elections ?

Dr. Ambedkar : I did not say that the representations were from the States. They may have been from individuals and not necessarily from the States. I have not got the name of the particular representative who sent the representation against the postponement of elections.

Shri B. K. P. Sinha : Is it a fact that certain parties which were nervous at the approach of the elections are now passing resolutions to the effect that Government have done a great harm by postponing the elections ?

Dr. Ambedkar : I feel that my hon. Friend knows more than I do.

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(24)

*SHORT NOTICE QUESTIONS AND ANSWERS ELECTORAL ROLLS FOR RURAL AREAS IN DELHI

Shri J. R. Kamble: Will the Minister of Law be pleased to state :—

(a) Whether the attention of Government has been drawn to the news appearing in the Evening News of the Hindustan Times dated the 20th March 1951 and in the Indian News Chronicle dated the 21st March 1951 that the Chief Commissioner of Delhi has ordered that the electoral rolls for the rural areas of Delhi State for the next general elections will be published only in Urdu ;

(b) Whether the above news item is a correct statement of fact, and if so, what are the reasons for the aforesaid rolls not being published in Hindi which is the official language of the Union ; and

(c) What is the policy of the Government with regard to the language of the electoral rolls for the next general elections in Part 'C' States ?

The Minister of Law (Dr. Ambedkar): (a) and (b) The two news items referred to in the question relate to elections to the District Board of Delhi and have nothing to do with the general elections to Parliament. The electoral rolls for Delhi for the ensuing general elections to the House of the People have in fact been published in three languages, *viz.* English, Hindi and Urdu.

(c) Under Rule 6 of the Representation of the People (Preparation of Electoral Rolls) Rules, 1950, the language in. which the electoral rolls in respect of State are to be prepared is to be decided by the Election Commission. Generally, the rolls have been prepared throughout the country in the regional languages only, but in certain bi-lingual areas in some of the States the Commission has directed the preparation of the rolls in an additional language also.

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*P. D., Vol. 7, Part I, 2nd April 1950, p. 2788.

Shri J. R. Kapoor: Do I take it that the electoral rolls of rural areas of Delhi with regard to the next General Elections are being published also in English ?

Dr. Ambedkar : Which rural area and for what purpose ?

Shri J. R. Kapoor : For the General Elections in the rural areas of Delhi.

Dr. Ambedkar : For the General Elections to Parliament they are printed in the regional language, as I just now said. Where the area is a composite area it is published also in some additional language.

Shri J. R. Kapoor : May, I know whether with regard to the electoral rolls for the next General Election to Parliament the electoral rolls relating to the rural areas of Delhi State are going to be published in English also in addition to Hindi and Urdu ? If so, will the Hon. Minister be pleased to state how many people are there in the rural areas of Delhi State who know English only ?

Dr. Ambedkar : It is not published in English only. It is published in three languages. As I said, the electoral rolls in Delhi for the ensuing General Elections to the House of the People have in fact been published in three languages English, Hindi and Urdu. Any voter may pick up any particular roll with which he is familiar.

Shri J. R. Kapoor: What was the language of the electoral rolls of the Delhi State in the last General Elections ?

Dr. Ambedkar : It must be the regional language and so far as I remember the old rule was also the same as now.

Shri J. R. Kapoor: What was considered to be the regional language at the time of the last General Election in the Delhi Rural Area?

Dr. Ambedkar : I am not quite familiar; probably it might have been Urdu. There is now an improvement.

Shri Hussain Imam : Is it a fact that there are no rural and urban constituencies separately in the State of Delhi ?

Dr. Ambedkar : I am not sure. I have not seen the constituencies as framed by the various committees that were appointed by this House.

Seth Govind Das : What are the languages other than the local languages in which these lists would be published at different places ?

Dr. Ambedkar : I must have notice of it. So far as I remember when I was answering a question by Mr. Anthony similar to the one now put, I think, I said that so far as Bombay was concerned English was also used for the purpose of preparaing them. If in the case of some other areas also such as Bangalore in Mysore State, I am not sure at the moment, I am speaking from memory.

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(25)

*SCRUTINY OF CENTRAL AND STATE LAWS

Pandit H. B. Bhargava : Will the Minister of Law be pleased to state whether the Government of India have set up or intend to set up a Law Commission or any other suitable machinery for the scrutiny and examination of all the Central and State Laws in the light of the Constitution of India with a view to amend, modify or repeal such provisions of the existing Laws which are inconsistent with Part III and other provisions of the Constitution and if not, why not ?

The Minister of Law (Dr. Ambedkar) : No Sir. In connection with the adaptation of the Central and State Laws under article 372 of the Constitution, in order to bring them into accord with the provisions of the Constitution, Government have taken the view that so far as fundamental rights are concerned, it would not be advisable to omit or modify any provision of a law on account of article 13(1), unless there was a clear inconsistency between such law and any of the provisions of Part III, as, for instance in the case of the Punjab Land Alienation Act, 1900, which has been repealed by adaptation.

Pandit M. B. Bhargava : Has the Government considered the question how far the State Laws and the Central Laws are in conformity with the present Constitution, and does the Government have any intention to apply its mind to this proposition ?

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* P. D., Vol. 7, Part I, 7th April 1951, p. 2820.

Dr. Ambedkar : Sir I don't think this is a matter which could be dealt with in the course of questions and answers. This would probably requisite a debate on the various modes and methods that could be adopted to carry out the purpose of article 372, in conformity with article 13(1).

Pandit M. B. Bhargava: Sir, may I know why one particular Act has been selected out of the ocean of laws and on what particular criterion has this law been selected ?

Dr. Ambedkar : I am not in agreement with the hon. Member when he says there are an ocean of laws which are inconsistent with the Constitution, although I agree there may be some. My hon. Friend will remember that this is a very difficult matter and Government must come to a definite conclusion on the issue whether a law is really inconsistent and whether it should be retained. This one law was examined with great care both in the Law Ministry and by the Attorney General and also the Legal Remembrancer of the Punjab Government and then the conclusion was arrived that this could not be retained in view of the fundamental rights and the Government have no kind of doubt in the matter that the matter could be dealt with by adaptation.

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(26)

*ELECTORAL ROLLS

2824. Shri Sonavane : (a) Will the Minister of Law be pleased to state whether it is a fact that electoral rolls are printed in Hindi in Bombay State ?

(b) Is it a fact that the Centre has directed the Bombay State to print the electoral rolls in English in addition to the already printed Hindi rolls ?

(c) If so, why was such a direction given, what is the extra cost of printing and who is going to bear it ?

The Minister of Law (Dr. Ambedkar): (a) The electoral rolls in the State of Bombay have been printed in the regional languages of the districts concerned, *viz.,* in Gujarati, Marathi and Kannada. In the case of bilingual districts of Belgaum

* P. D., Vol. 7, Part I, 7th April 1951, p. 2957.

and Satara South, the rolls have been printed both in Marathi and Kannada. In Bombay City the electoral rolls have been printed in Devanagari script.

(b) and (c) The attention of the hon. Member is invited to my reply given to part (b) of Shri Kamath's starred question No. 1409 on the 13th February 1951.

The cost of printing the electoral rolls in English in respect of the Bombay City is estimated at rupees six lakhs and will be shared by the Government of Bombay and the Government of India in the same way as any other expenditure relating to the preparation of the electoral rolls will be shared.

Shri Sonavane : May I know after how many days or months of completion of the rolls printed in Devnagari in the Bombay City were these directions given to printing the rolls in English?

Dr. Ambedkar : I cannot give a precise answer to this question, but I think the direction was issued after complaints were received by the Election Commissioner that there were many people in Bombay City who would not be in a position to understand the Hindi rolls.

Shri Sonavane : Could this direction not have been given earlier which would have saved an extra expenditure of six lakhs over the printing of these rolls ?

Dr. Ambedkar : It is perfectly possible, I think. Nothing is impossible.

Shri Sonavane : Who is responsible for this waste of money ?

Dr. Ambedkar : There is no waste of money at all there. In any case it was necessary to have a roll in English whether it was printed simultaneously, earlier or later.

Shri Sonavane : But could not the simultaneous printing of rolls in Devnagari and English have reduced the expenditure ?

Dr. Ambedkar : No, how could it ?

Shri Kamath : Have reports been received from Bombay and other States as to how many claims and objections have been filed in respect of the electoral rolls published already, and how many of those claims and objections have been disposed of?

Dr. Ambedkar : Sir, this does not arise out of this question.

Mr. Deputy Speaker: Yes, that is so.

Shri Sarangdhar Das : Considering that Singbhum District in Bihar is a Bilingual area, will the Minister please state why the rolls are not published in Oriya Language also besides Hindi ?

Dr. Ambedkar : It is possible that that is not the regional language of the area.

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(27)

*LAWYERS IN SUPREME COURT

3233. Shrimati Durgabai : (a) Will the Minister of Law be pleased to state what is the practice followed in engaging lawyers to represent the Government of India and the State Governments in the Supreme Court?

(b) Which is the Agency under the Ministry that is entrusted with the work of engaging lawyers on behalf of Government ?

(c) Is there any panel out of which lawyers are chosen to represent Government in various cases ?

(d) What is the basis on which fees for such lawyers is fixed ?

The Minister of Law (Dr. Ambedkar): (a) The Government of India is almost always represented by the Attorney-General in the Supreme Court. He is assisted by a Junior Counsel who is selected in consultation with the Attorney-General and having regard to the nature and importance of the case. Similarly a State Government is usually represented by the Advocate-General of the State and he is assisted by a Junior Counsel. The instructions of the State Governments as to engagement of particular Counsel are carried out.

(b) The Government Agent who is in charge of the Central Agency Section, Ministry of Law, engages Counsel on behalf of the Government of India and those State Governments which have entrusted their work to that Section.

(c) No panel of lawyers is maintained in the Central Agency Section. The Government Agent keeps a list of Counsel

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*P. D., Vol. 7, Part I, 18th April 1951, p. 3315.

practising before the Supreme Court and engages Counsel as indicated in the reply to part (a).

(d) Fees for Counsel naturally vary with the seniority and standing of the Counsel engaged and also with the importance and difficulty of the case. I regret I am unable to give a more precise answer to this question.

Shrimati Durgabai : May I know whether the Hon. Minister could give us information as to who are all juniors for the purpose of engagement and what was the basis on which their fees were paid ?

Dr. Ambedkar : The seniors who were generally engaged for the Central or State Governments are Mr. Alladi Krishnaswami Ayyar and Mr. Indra Dev Dua.

The junior advocates who are generally engaged are—

Mr. G.N. Joshi

Mr. S.N. Sikri

Mr. Rajinder Lal

Mr. K. Singh

Mr. H. J. Umrigar

Mr. R. Ganapati Ayyar

Mr. B. Sen

Mr. C.R. Pattabhiraman

Mr. S.N. Mukerjee

Mrs. Durgabai

Mr. S.B. Jeth

Rai Bahadur Nanakchand

Mr. V.N. Sethi

Sardar Kartar Singh Chowla

Mr. G.C. Mathur

Mr. A.N. Kirpal

Mr. R.N. Tikku

Mr. M.K. Pillai

Mr. P.M. Nathwani.

The usual fees fixed for junior counsels are as follows :—

Ten gold mohurs for opposing a petition for special leave.

Ten to twenty gold mohurs per day for criminal appeals, or applications under article 32 of the Constitution, according to the nature of the case.

Fifteen to twenty gold mohurs per day for civil appeals according to the nature of the case, but in cases in which important questions are involved higher fees have been paid to counsel but in no case exceeding forty gold mohurs.

In cases where the Attorney-General is briefed on behalf of the State Governments, his fees are 100 gold mohurs per day, and where he appears on behalf of the Central Government no fees are charged except in cases where costs are recovered from the opposite party.

In cases where other counsels are engaged directly by a State Government they are paid fees by that Government direct.

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(28)

*COOCH BEHAR (POPULATION)

3235. Shri S.C. Samanta: (a) Will the Minister of Law be pleased to State the names and number of villages with population figures in Cooch Behar in West Bengal, where there are only one, two or three voters in each village for the coming General Election.

(b) What were the corresponding population figures in those villages according to the census of 1941 ?

The Minister of Law (Dr. Ambedkar): (a) and (b) I understand from the Election Commission that there are 25 villages in Cooch Behar which have not more than 3 voters each, entered in the electoral rolls. A Statement containing the names of these villages, together with the number of voters in each, entered in the rolls at the time of preliminary publication, is placed on the Table. (See Appendix XXII, Annexure No. 19). The population figures for these villages are not available here but I am trying to get them from the local authorities. I should also add that the period for presentatin of claims expired only on the 31st March last, and the Election Commission has no information so far, as to the number of persons enrolled as voters on the basis of such claims.

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*P. D., Vol. 7, Part I, 18th April 1951, p. 3318.

Shri S. C. Samanta : Is it a fact that the matter was referred to the Election Commission ; and if so, what steps have been taken by this time ?

Dr. Ambedkar: As I said, we have referred the matter to the Local Government to find out what exactly is the position. It is quite possible that on account of the disturbances that have recently taken place some of the villagers have shifted from one side to the other and some villages have become what we call in technical language *beckira.*

Shri S. C. Samanta: The Hon. Minister stated that the population figures of these villages are not available. Am I to understand that there is no census figures for Cooch-Behar ?

Dr. Ambedkar: I have not seen it.

Shri Kamath: When does the Election Commission expect to receive reports about the claims and objections filed from these villages ? Has any report been called for at all ?

Dr. Ambedkar: In the ordinary course, I do not think so because this is a matter entirely to be left to be disposed of by persons who are appointed to adjudicate claims in this matter.

Shri S. C. Samanta: Due to the sparseness of the population in Cooch-Behar, will Government consider relaxing the rules in respect of polling stations in the coming elections ?

Dr. Ambedkar: All these considerations will be borne in mind.

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(29)

*ELECTORAL ROLLS

3361. Shri Kamath : Will the Minister of Law be pleased to State :—

(a) whether reports have been received or called for from each of the Part 'A', Part 'B' and Part 'C' States as to the number of claims and objections filed in respect of electoral rolls in each State;

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*P. D., Vol. 7, Part I, 21st April 1951, p. 3439.

(b) if so, the total number of claims and objections filed in each State;

(c) the number of such claims and objections disposed of so far ; and

(d) the number allowed, and the number disallowed ?

The Minister of Law (Dr. Ambedkar): (a) to (d) The information is being collected by the Election Commission and will be laid on the Table in due course.

Shri Kamath: Is the last date for the filling of objections the same in all the states or is it different ?

Dr. Ambedkar: I cannot say. I must have notice of that question.

Shri Kamath : When will the information about claims and objections be received in the Election Commissioner's Office ?

Dr. Ambedkar: I do not think there will be any undue delay in this matter.

(30)

*MANUFACTURE OF BALLOT BOXES

3355. Shri R. C. Upadhyaya (on behalf of **Shri Kishorimohan Tripathi):** (a) Will the Minister of Law be pleased to State what progress has so far been made by different States in the matter of manufacturing ballot boxes and the printing of ballot-papers for the purposes of General Elections ?

(b) Are these going to be of a uniform type throughout India ?

(c) Has sufficient care been taken in the making of the ballot boxes and the printing of the ballot-papers to see that ignorant and illiterate voters can vote freely according to their choice ?

The Minister of Law (Dr. Ambedkar): (a) Orders for the manufacture of ballot boxes have been placed, in consultation with the Election Commission, by all the States except West Bengal, Bihar and Rajasthan. Information about these three States is awaited. Ballot papers for the whole of India are being printed centrally at the Security Printing Press, Nasik.

*P. D., Vol. 7, Part I, 21st April 1951, p. 3444.

(b) The ballot boxes are all of designs approved by the Election Commission and are more or less of a *uniform* type, except for variations in locking arrangements. Ballot papers are of a uniform type.

(c) Yes, the ballot boxes will be printed in two colours, one colour to be used for elections to the House of the People and the other for elections to the State Legislative Assembly. The ballot papers also will be similarly distinguishable. Each candidate will have a ballot box allotted to him at each polling booth, and the boxes of different candidates will be identified by means of labels pasted thereon bearing familiar and easily distinguishable symbols, such as flower, hut, tree, human hand, plough, elephant, etc., Each candidate will have a symbol allotted to him. These arrangements will make it easy for illiterate voters to cast their votes freely.

Shri R. C. Upadhyaya: May I know if the Government have procured steel for the purpose of manufacture of ballot-boxes ?

Dr. Ambedkar: Yes. How can the boxes be manufactured without steel ?

Ch. Ranbir Singh : How many days ahead of the elections will be symbols be known to the electorates ?

Dr. Ambedkar: I suppose the symbol will be allotted on the day the scrutiny is complete and the nomination paper is finally accepted. It is for the candidate to advertise what his simbol is among his voters.

Shri J. N. Hazarika: May I know the basis on which the number of ballot boxes required for election purposes has been ascertained, and in so ascertaining whether geographical considerations have also been borne in mind ?

Dr. Ambedkar: It depends upon the number of voters, the capacity of the polling booth etc. I have got here figures as to the number of ballot boxes each State has requisitioned for the purpose of conducting the elections. It is a long list.

An. hon. Member: He wants for Assam.

Dr. Ambedkar: For Assam the total number of ballot boxes are 50,000.

Mr. Speaker : I do not think it need be read. The Question Hour is over.

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(31)

*DISSOLUTION OF PARLIAMENT

3476. Shri Sonawane : (a) Will the Minister of Law be pleased to State whether there is a proposal before Government for the dissolution of Parliament in view of the ensuing general elections in November-December 1951?

(b) If so, when will Parliament be dissolved, whether before or after the results of elections are known ?

The Minister of Law (Dr. Ambedkar) : (a) and (b) The attention of the hon. Member is drawn to article 379(1) of the Constitution. By virtue of this article, this provisional Parliament have been duly constituted and summoned to meet for the first session. Accordingly, there will be no dissolution of this Parliament before the general elections take place in November-December next, or even after the results of those elections are announced. It will automatically cease to function as soon as the new Houses of Parliament have been summoned to meet for first session.

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(32)

**ELECTORAL POLLS

3611. Shri Kishorimohan Tripathi : (a) Will the Minister of Law be pleased to State whether sufficient arrangement has been made to meet all possible demands of electoral rolls during the coming elections ;

(b) Is there any estimate of such demands and if so, what is its basis ;

(c) What will the electoral rolls cost approximately for candidates contesting for (i) House of People seat; (ii) Council of States seat; and (iii) a seat in either House of State Legislature ?

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*P. D., Vol. 7, Part I, 25th April 1951, p. 3556.

**_bid.,_ 28th April 1951, p. 3702.

The Minister of Law (Dr. Ambedkar) : (a) Yes.

(b) While it is not possible to make any precise estimate as to the probable demand for copies of the electoral rolls, arrangements have been made to ensure that every duly nominated candidate and every organised party in a constituency will be able to obtain a copy.

(c) The information is being collected by the Election Commission and will be laid on the Table of the House in due course.

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(33)

*WEST BENGAL LEGISLATURE (VACANCIES)

3845. Shri Chattopadhyaya: Will the Minister of Law be pleased to State—

(a) how many seats in West Bengal Legislature were lying vacant . for more than a year in 1950-51;

(b) for how many of them no elections have been held as yet;

(c) whether they will be filled up before the coming general election; and

(d) the reason for their lying vacant so long ?

The Minister of Law (Dr. Ambedkar) : (While the Government of India as such are not concerned with the filling of casual vacancies in the State Legislatures, the following information has been obtained from the Election Commission:—

(a) Seven,

(b) Two

(c) It is expected that bye-elections to fill the remaining two seats will be held very soon.

(d) The delay in filling these vacancies is stated to be due to the uncertainty which existed for some time in regard to the term of the present West Bengal Legislative Assembly owing firstly to the proposed re-constitution of that Assembly and secondly to the earlier decision to hold the general elections in April-May, 1951.

*P. D., Vol. 7, Part I, 5th May 1951, p. 3931.

Shri Chattopadhyay: Am I to understand, then, that the Central Government has got no responsibility to see that vacancies in the State Legislatures are filled up without any delay ?

Dr. Ambedkar: No. there is no responsibility. It is entirely a matter for the Provincial Government and the Rajpramukh or Governor.

Shri Chattopadhyay : Of these constituencies lying vacant for more than a year, may I know how many are general constituencies and how many trade union constituencies ?

Dr. Ambedkar: I am afraid I have no information.

Dr. M. M. Das: May I know whether it is a fact that during the last two months, four bye-elections have been held in West Bengal ?

Dr. Ambedkar: I can say nothing on the subject; I have no information, as I said.

Prof. S. L. Saksena: Is the Hon. Minister aware that in the U. P. also there are seats which are vacant for more than a year ?

Mr. Speaker : Order, order, the Hon. Minister has already said that he has no responsibility. Next question.

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(34)

*GENERAL ELECTIONS IN MADRAS

3866. Shri P. Basi Reddi: (a) Will the Minister of Law be pleased to State whether it is a fact that the Madras Legislative Council has by a resolution requested Government to hold the General elections in that State not earlier than February 1952 ? ‘

(b) If so, what action has Government taken in the matter ?

The Minister of Law (Dr. Ambedkar): (a) Yes.

(b) Government do not consider that the reasons urged in the Madras Legislative Council in passing the resolution are sufficiently weightly to warrant the postponement of the elections in that State to February, 1952.

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* P. D., Vol. 7, Part I, 5th May 1951, p. 3955.

Shri P. Basi Reddi: Have any other State Governments made similar requests; if so, what are those Governments ?

Dr. Ambedkar: None.

Shri Kesava Rao : May I know whether Government is aware that November and December are rainy months in Madras and it is not possible to hold elections at that time ?

Mr. Speaker: They are supposed to be aware of it.

Seth Govind Das: Will the Hon. Minisater be pleased to assure us that the general elections will be held all over the country before 31st December, 1951 ?

Dr. Ambedkar: That is the intention of the Government.

Shri J. N. Hazarika: In order to give opportunities to the cultivators to participate fully in the first National General Election, will Government not allow the elections to take place after the paddy harvesting season which is in January and February in certain States including Assam ?

Dr. Ambedkar: Government has fixed a period of two months. Within that period any State is free to choose any period it likes.

Shri Brajeshwar Prasad: Has the attention of Government been drawn to the news published in the morning papers that elections would be held in February next ?

Dr. Ambedkar: I have read it, but I am not responsible for that news.

Shri P. Basi Reddi : Have any other State Governments made similar request; if so, what are they ?

Dr. Ambedkar: I have already answered that. My answer was 'No'.

Shri Venkataraman: Has the Mysore Government made a similar recommendation like Madras that the elections may be held in February or March ?

Dr. Ambedkar: No such information has come to my notice.

Shri Dwivedi: In view of the fact that the delimitation of constituencies in certain States is still under the consideration of this House, may I know whether elections in those States will be held by the time they are held in other States ?

Dr. Ambedkar: They will be settled in sufficient time to enable the elections to take place in the period prescribed.

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(35)

*GENERAL ELECTIONS

4553. Shri Sidhva: *(a)* Will the Minister of Law be pleased to state whether besides the Government of Madras, it is a fact that the Orissa Government has suggested to the Union Government that the General Elections should be held in January-February, 1952 ?

(b) If so, what reply has been sent by the Union Government to the Orissa Government ?

The Minister of Law (Dr. Ambedkar): *(a)* and *(b)* A communication was received by the Election Commission from the Orissa Government pointing out certain difficulties in fixing a common period of polling for all the districts in that State within the months of November-December, 1951 and suggesting that from this point of view January-February might be more suitable. The State Government had however expressed their willingness to adhere to the November-December time-table, provided polling could be held in some parts of the State in the latter half of November and in the remaining parts from 10th to 22nd December, 1951. The Election Commission has replied to the State Government that the programme for polling can in no circumstances be allowed to go beyond December, 1951 and that the Commission has no objection to the polling being spread over November-December as proposed though efforts should be made to reduce the total period *of* polling to four weeks if possible.

Shri Sidhva: As definite months have been fixed by the Government, may I know whether there is any likelihood of a change in those months ?

Dr. Ambedkar: As at present situated there is no likelihood of change but I cannot say what may happen in the future.

Mr. Speaker: I may say the question to confined is Orissa.

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*P. D., Vol. 8, Part I, 26th May 1951, p. 4684.

Seth Govind Das: Is ft a fact that in view of the information being received from Orissa and other places as also in view of the preparations of elections that are going on at present, the Hon. Minister has expressed the opinion that it is impossible to hold elections before January-February, and further if it is not a fact, then will the Hon. Minister make a clear statement that there is not the least likelihood of the election being postponed beyond 31st December, 1951 ?

Mr. Speaker: That is what he just said.

Seth Govind Das: I just wanted to know whether it was a fact that the Hon. Minister himself had expressed this opinion before many responsible persons that

Mr. Speaker: Order, order. No argument on that point.

Shri Biswanath Das: May I know whether the Government are aware of the fact that the monsoons are active there in the months of November-December ?

Dr. Ambedkar: I suppose the Election Commission has taken everything into account in fixing the time-table.

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(36)

*REGIONAL COMMISSIONERS

4565. Shri Kamath: Will the Minister of Law be pleased to state:

(a) Whether Regional Commissioners to assist the Election Commission are proposed to be appointed in accordance with Article 324 (4) of the Constitution; and

(b) If so, how many and by what date ?

The Minister of Law (Dr. Ambedkar): *(a)* Yes.

(b) Four. No decision has yet been taken as to the date from which they are to be appointed.

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* P. D., Vol. 8, Part I, 26th May 1951, p. 4702.

(37)

*FIXING OF ELECTION DATES

93. Shri Kamath : Will the Minister of Law be pleased to state :

(a) Whether Government have decided upon a date or dates for the holding of elections to the House of the People and the State Legislative Assemblies;

(b) If so, what that decision is, and between winch dates polling will be held in each of the States;

(c) By what date the final results are expected to be declared with regard to the House of the People as well as the various State Legislative Assemblies; and

(d) When it is proposed to constitute the Council of States at the Centre and Legislative Councils in the States, and to elect the President of the Indian Union ?

The Minister of Law (Dr. Ambedkar): *(a)* Yes.

(b) Polling is scheduled to begin on or about the 3rd January and end by the 24th January, 1952, subject to such minor adjustments of the dates as might be necessary to meet exceptional difficulties that might exist in certain areas. In Himachal Pradesh, in parts of Kangra district in Punjab and, possibly in the high attitude regions of Uttar Pradesh, the polling may have to be finished by the end of October this year, since later on these, areas will get snow-bound.

(c) The Election Commission has proposed the 15th February 1952 as the date by which the declaration of results is to be completed.

(d) While it is not possible to say precisely at this stage when the Council of States and the State Legislative Councils will be constituted, it is expected that on the basis of the programme outlined above, it should be possible to constitute these Houses by about the end of March 1952. The election of the President will take place immediately after the due constitution of the two Houses of Parliament and the State Legislative Assemblies.

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*P. D., Vol. 9, Part I, 9th August 1951, p. 116.

(38)

*DATES OF GENERAL ELECTION IN STATES

114. Shri J. N. Hazarika: Will the Minister of Law be pleased to state:

(a) Whether the States have fixed the dates, for the next General Elections, in their respective States, if so, which are such States and the dates fixed by them; and

(b) Whether the constituencies have been called to elect their representatives to Parliament and State Assemblies ?

The Minister of Law (Dr. Ambedkar): *(a)* No, Sir. The Election Commission has addressed the State Governments on the subject.

(b) No.

Shrimati Durgabai: Has the attention of the Hon. Minister been drawn to the recent broadcast talk by the Chief Election Commissioner to the effect that nearly 25 lakhs of women voters are disqualified; if so, may I know whether opportunities will be taken of the postponement to qualify the disqualified women voters ?

Dr. Ambedkar : It does not arise out of this question. This question relates to the dates of election and not to electoral rolls.

Shri Kamath : In view of the fact that polling in Himachal Pradesh will take place by the end of October, has Government already announced the exact date of polling so as to enable the voters as well as the candidates to get on with their work ?

Dr. Ambedkar: I have no doubt about it that Government will take all the necessary steps.

Shri Kamath: Has Government any idea as to when the First Session of the new Parliament is likely to be convened ?

Dr. Ambedkar: Well, it could not be convened unless all the preliminary stages have been gone through.

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* P. D., Vol. 9, Part I, 9th August 1951, p. 117.

Shri Durgabai: May I know whether the women of Rajasthan have sent a memorandum in regard to the electoral rolls ?

Dr. Ambedkar: It does not arise out of this.

Shrimati Renuka Ray: It does arise because the question relates to the dates of the election.

Mr. Deputy Speaker: It is a very important matter, of course. But unfortunatly it does not relate to this question.

Seth Govind Das : The Hon. Minister was pleased to state the date of the polling, but are the Government preparing a complete scheme for the preliminary work that has to be done in connection with polling e.g., nomination and other things and, if so, when will the dates for nomination, scrutiny and polling be made known ?

Dr. Ambedkar : That is already set out in the People's Representation Act.

Shri Sondhi : In view of the fact that simultaneous voting will have to take place both for the State Legislature and the House of the People, will it be necessary to have at least seven constituencies of the State to complete one for the House of the People in Kangra district in Punjab ?

Dr. Ambedkar: Whatever is necessary will have to be done. Government certainly will not tolerate any irregularity with regard to elections.

Shri Sondhi: There are five plains seats and two hills seats. I want to know whether elections will be for seven or only two ?

Dr. Ambedkar: These are governed by rules; I think exceptions will be made when circumstances justify.

Shri Sondhi: I want to know because polling is going to take place shortly.

Mr. Deputy Speaker: The Hon. Minister may not carry with him details with respect to every single constituency. Hon. Members will therefore appreciate the difficulty.

Shri Sondhi: Because the time now left is only two months.

Shri Sonawane : Will elections in a particular State be over a day, or will they be spread out over several days ?

Dr. Ambedkar: It depends upon the available administrative machinery. If the State has got sufficient machinery to complete all the elections in a single day, certainly the State will do it. Otherwise Government is quite prepared to spread the elections over a certain period in order to enable them to cope with the difficulties.

Shri Kamath: Arising out of answers to parts *(a)* and *(b)* of the question, have Regional Commissioners been appointed in the other parts of India and have the State Government been asked to assist the Regional Commissioners in ' going ahead' with arrangements for polling and other cognate matters ?

Dr. Ambedkar : The question of appointment of Regional Commissioners is under consideration. It is expected there will be Regional Commissioners.

Shri Kamath: Have the final electoral rolls been published ?

Dr. Ambedkar: I cannot give an off-hand answer. Certainly they will be printed in due course.

Shri Dwivedi: In view of the fact that Ministers of States and Home Affairs have accepted the principle that certain Part C States will have legislatures. I want to know whether the elections for the legislatures in Part C States will be held simultaneously with the General Elections.

Dr. Ambedkar : I cannot say what the provisions of the Bill are.

Shrimati Ammu Swaminadhan : May I ask the Hon. Minister what are the dates which are fixed for polling in Rajasthan ?

Dr. Ambedkar: I cannot give an answer to that.

Shri Kamath: By what date will the rules under the Electoral Bill be finalised and notified ?

Mr. Deputy Speaker: Next question.

Dr. Ambedkar: It is expected that they would be finalised by the end of this month.

Mr. Deputy Speaker: I am afraid hon. Members go on putting questions and Hon. Ministers go on giving answers. I have called the next question; the Hon. Minister need not have answered.

Shri Kamath: I did not hear you, Sir.

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(39)

*SYMBOLS FOR POLITICAL PARTIES

115. Shri S. N. Das: Will the Minister of Law be pleased to state:

(a) The names of political parties which were invited by the Election Commission to consider allotment of symbols to different parties in the coming General Elections;

(b) On what basis these parties were invited;

(c) Before inviting these parties whether any effort was made to as certaina as to which of the political parties were going to contest the elections ; and

(d) Whether any decision has been taken regarding allotment of symbols ?

The Minister of Law (Dr. Ambedkar): *(a)* (1) Indian National Congress.

(2) All Indian Forward Block (Ruikar Group).

(3) All India Forward Block (Marxist Group Party of Workers and Peasants of India).

(4) Akhil Bharat Hindu Mahasabha.

(5) Kisan Mazdoor Praja Party.

(6) Akhil Bharatiya Ram Rajya Parishad.

(7) Socialist Party.

(8) All India Scheduled Castes' Federation.

(b) and *(c)* Such of the parties as, in the opinion of the Election Commission, actually function in all the States or

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* P. D., Vol. 9, Part I, 9th August 1951, p. 133.

most of the States and are expected to set up candidates therein, were invited to the conference.

(d) Symbols have been allotted by the Election Commission as follows :

(1) All-India Forward Block (Marxist Group)—Standing Lion.

(2) All-India Forward Block (Ruikar Group)—Human Hand.

(3) Akhil Bharat Hindu Mahasabha—Horse and Rider.

(4) Kisan Mazdoor Praja Party—Hut.

(5) Akhil Bharatiya Ram Rajya Parishad—Rising Sun.

(6) All-India Scheduled Castes' Federation—Elephant.

An early decision is expected to be taken regarding the symbols to be assigned to the Indian National Congress and the Socialist Party of India.

The Communist Party of India also has selected two symbols and informed the Election Commission of them. These are being considered by the Commission.

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(40)

*ELECTORAL ROLLS FOR GENERAL ELECTIONS

20. Dr. M. V. Gangadhara Siva : *(a)* Will the Minister of Law be pleased to state by which date the preliminary electoral rolls are likely to be finalised in various parts of the country ?

(b) What time is likely to be taken in the printing of the final electoral rolls and is it proposed to print them in India or outside ?

The Minister of Law (Dr. Ambedkar): *(a)* The electoral rolls are expected to be finally published by the end of this month.

(b) The rolls are not to be reprinted before final publication. Only addenda and corrigenda necessitated by claims and objections will be printed and added to the preliminary rolls. No printing has been or will be done outside India.

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*P. D., Vol. 9, Part I, 9th August 1951, p. 149.

(41)

*WOMEN VOTERS AND ELECTORAL ROLLS

24. Shri S. N. Das: *(a)* Will the Minister of Law be pleased to state the total number of entries made for women voters which were subsequently removed according to the instructions issued by the Government of India on the ground that they did not bear the proper name of women voters—giving state-wise figures ?

(b) Is it a fact that these entries were made by the enumerators without asking the names from those for whom these entries were made?

(c) Is it a fact that a large number of representations have been received by Government to revise the electoral rolls with a view to include the names of large number of such women voters ?

(d) If so, have Government considered those representations and come to any decision ?

The Minister of Law (Dr. Ambedkar): *(a)* to *(d)* The attention of the hon. Member is invited to the reply to starred question No. 120 given on 9th August 1951.

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(42)

**CENTRAL GRANTS FOR BACKWARD CLASSES

322. Shri Kshudiram Mahata : Will the Minister of Education be pleased to state the amount of Central grants in the year 1948, 1949, 1950 and 1951 sanctioned for the education of backward classes other than scheduled castes and scheduled tribes ?

The Minister of Law (Dr. Ambedkar): Under the Government of India scheme of scholarships to Scheduled Castes, Scheduled Tribes and other Backward Classes, scholarships are awarded to suitable Backward Classes candidates for their post-matriculation education in India. The expenditure incurred so far on award of scholarships to

*P. D., Vol. 9, Part I, 9th August 1951, p. 151.

***Ibid.,* p. 400.

Backward Classes other than Scheduled Castes and Scheduled Tribes is as under:—

1948-49	...	...	Rs. Nil.
1949-50	...	...	2,46,327
1950-51	...	...	3,57,504

In the year 1951-52, scholarships of the total value of Rs. 3,65,000 are likely to be awarded to Backward Classes candidates.

Shri Kshudiram Mahata: May I know whether any provincial allocations is made of the total sum before considering any particular application and, if so, on what basis ?

Dr. Ambedkar: I do not suppose that there is any provincial allocation.

Shri Rudrappa: May I know the number of applications in 1949-50 and 1950-51 ?

Dr. Ambedkar: The figures are as follows :—

1949-50.—Applications received 3006. Awards made 349.

1950-51.—Applications received 3830. Awards made 517

Shri Rathnaswamy: What is the method adopted by Government to see that the grants given for the benefit of these backward classes are properly spent by the States ?

Dr. Ambedkar: The money is not awarded to the States. The applications are disposed of by a Central Board. The States do not intervene at all.

Thakur Krishna Singh: May I know whether any lists of the backward classe in the merged States and Part B and Part C States have been prepared by the State Government concerned and is it not a fact that applications for scholarships presented by the students from these areas are not taken up because there is no such list ?

Dr. Ambedkar: There is the list all right. These lists are made on the recommendations made by the various States.

Shri R. K. Chaudhari: May I know when the lists of the backward classes were last revised ?

Dr. Ambedkar: I require notice.

Dr. Deshmukh: Has any attempt been made to find out the population of these backward classes State-wise ?

Dr. Ambedkar: At the moment, the question of population is quite unimportant.

Dr. Deshmukh : May I know if it is not a fact that the number of backward classes included in the Schedule of each State varies very considerably and that so far as Part C States are concerned the number of classes included are very fes ?

Dr. Ambedkar: That is quite possible, because a community which may be backward in one area may not be backward in another area.

Dr. Deshmukh: Is it not a fact that Part C States are more backward than the rest of India ?

Dr. Ambedkar: That is probably an aspersion which they would not like.

Thakur Krishna Sinh : Is it not a fact that the revised list was prepared before the Unions were formed and before the States were merged into the Provinces ?

Dr. Ambedkar: That may be so, but how does it affect the issue ? These lists are not hard and fast. They are revised every time.

Shri Deshbandhu Gupta: Is it not a fact that before these scholarships are awarded the amounts are allocated to different States on population basis and the distribution of the scholarships is also done through the States ?

Dr. Ambedkar: So far as I understand, that is not the case.

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(43)

*GRANTS FOR PROMOTING NATIONAL LANGUAGE

323. Shri Kesava Rao : *(a)* Will the Minister of Education be pleased to state the amount of money spent during 1949-50 and 1950-51 towards promoting the national language?

*P. D., Vol. 9, Part I, 18th August 1951, p. 323.

(b) What are the private institutions and organisations which were given grant for this purpose ?

(c) Have the Government of India set apart any amount towards grants to various non-Hindi speaking States ?

The Minister of Law (Dr. Ambedkar): *(a)* Rs. 2,80,000 during 1949-50 and Rs. 1,05,000 during 1950-51.

(b)(i) Hindi Sahitya Sammelan, Allahabad.

(ii) Hindustani Cultural Society, Allahabad.

(iii) Indara Talim-o-Tarraqi, Jamia Millia, Delhi, for post literacy Hindi literature.

(iv) Akhil Bhartiya Hindi Parishad, New Delhi.

(c) Government is opening a special Section in the Ministry for promoting the cause of Hindi in non-Hindi speaking States and also intends to establish a central organisation. In this connection the expenditure involved will be borne by Government.

Shri Kesava Rao: Arising out of the answer to part *(b)* of the question, may I know whether any non-official organisations in non-Hindi speaking areas are given assistance by the Central Government ?

Dr. Ambedkar : The facts are as I have stated in the answer to part *(b)*.

Shri Kesava Rao : In answer to part *(b),* the Hon. Minister stated the names of certain organisations which are situated either at Allahabad or at Delhi. I want to know whether any organisations other than those in Hindi knowing areas are given any contribution by the Central Government.

Dr. Ambedkar: I do not know if there are any such oranisations outside the places mentioned, and if there are probably they are too weak to carry on this sort of work.

Shri Kesava Rao: May I know whether the Government has got any idea of the extra expenditure incurred by the non-Hindi-speaking areas in connection with the promotion of Hindi in those areas ?

Dr. Ambedkar: They might be doing it. There are State Governments which are very enthusiastic about the subject

and they spend more money. There are others which are less enthusiastic and they spend less.

Mr. Deputy Speaker : The Hon. Minister has already said that the Government is considering the desirability of opening institutions and recognising them and having a central institution also for non-Hindi-speaking areas.

Shri R. K. Chaudhari: Has the amount set apart for distribution to non-Hindi States been distributed already and if so, what is the amount allotted to Assam ?

Dr. Ambedkar: I do not know that this has been done. I cannot give any information on the subject now.

Shri A. C. Guha: In view of the fact that the four institutions whose names the Hon. Minister has given as receiving subsidies are situated either in Allahabad or in Delhi, may we know what are their functions and what is the purpose behind the grant of subsidies to these institutions ?

Dr. Ambedkar: Because we want to spread Hindi and they have branches all over India.

Shri A. C. Guha: Have they branches all over India ?

Dr. Ambedkar : One can draw a legitimate inference that they have branches all over India. Otherwise they would not be given any subsidy.

Shri Shiv Charan Lal: What is the amount given to the Hindi Sahitya Sammelan during 1949-50 and 1950-51?

Dr. Ambedkar: I have not got the break-up figures.

Seth Govind Das: Why has the expenditure incurred on this account this year been less as compared to the year 1949-50 ?

Dr. Ambedkar: Because Hindi has spread very much.

Seth Govind Das : What is the difference between the amounts granted to the Hindi Sahitya Sammelan and the Jamia Milla rspectively ?

Dr. Ambedkar: As I said, on the basis of the figures which I have before me I am unable to make any such comparison. I have given totals.

Seth Govind Das: Has the Government any information regarding the activities of those institutions and organisations which are being given the grants for the propogation of Hindi: and do the Government receive any yearly, half yearly or quarterly reports in this connection ?

Dr. Ambedkar: I think my hon. friend may legitimately presume that Government must be informed on this subject before making this contribution.

Shri Kesava Rao: May I know if any non-Hindi States have asked for a grant to promote Hindi in their States ?

Dr. Ambedkar: I suppose every Government is in the habit of asking for grants.

Mr. Deputy Speaker: The Hon. Minister is giving answers which can be inferred by the Hon. Members themselves. He is obviously not in a position to give detailed answers. Members may reserve their questions for the Hon. Minister in charge when he comes here. It is no use putting hypothetical questions and getting hypothetical answers.

Seth Govind Das : I am not asking for details, but I am asking on a question of principle. Has the Government prepared any definite plan for the propagation of Hindi or is any such plan in the course of preparation, or is there no such plan at all ?

Dr. Ambedkar : I should like to leave this question to be answered by the Hon. Minister of Education.

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(44)

*MODE OF VOTING AT GENERAL ELECTIONS

455. Shri Alexander: Will the Minister of Law be pleased to state :

(a) whether Government have decided upon the mode of voting in the next General Elections; and

(*b*) if so, what it is and what steps are taken to educate the common people on the same ?

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* P. D., Vol. 9, Part I, 22nd August 1951, p. 553.

The Minister of Law (Dr. Ambedkar): *(a) and (b)* . Under section 59 of the Representation of the People Act, 1951, at every election where a poll is taken votes are to be given by ballot in such manner as may be prescribed by rules. These rules are at present under preparation.

The Films Division of the Ministry of information and Broadcasting is bringing out an educational film shot depicting scenes illustrative of the actual casting of the ballot by voters into boxes with symbols of candidates. The symbols used in this film will not be included in the list of symbols ultimately approved by the Commission. Radio talks and election rehearsals have also been arranged for the education of the voters.

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(45)

*STATUTORY AND NON-STATUTORY BODIES

447. Shri S. N. Das : Will the Minister of Law be pleased to state :

(a) the number and names of statutory and non-statutory bodies of a permanent nature functioning under the administrative controls of his Ministry : giving the following information in each case : (i)the year of their constitution ;

(ii) the recurring annual expenditure incurred by them;

(iii) the provision for the audit of their accounts : and

(iv) the method of submission of the report of their activities.;

(b) the number and names of such *ad hoc* Committes as were appointed by the Ministry since the 15th August 1947 and which have finished their work; and

(c) the number and names of *ad hoc* Committees which are still functioning, giving the date of their appointments and the time by which they are expected to finish their work ?

The Minister of Law (Dr. Ambedkar): *(a)* There is no non-statutory body of a permanent nature functioning under the administrative control of my Ministry, and the Income-

*P. D., Vol. 9, Part I, 22nd August 1951, p. 554.

tax Appellate Tribunal is the only statutory body of a permanent nature so functioning.

(i) It was constituted in the year 1941.

(ii) The expenditure varies from year to year. The budget grant for the current year is Rs. 7,87,700.

(iii) The accounts are audited by the Accountant General concerned.

(iv) Monthly reports of disposal of appeals and applications by the different Benches of the Tribunal are received in the Ministry. In addition an annual administration report is also submitted by the Tribunal to the Ministry. Information relating to the Tribunal is incorporated in the Notes on the activities of the Ministry circulated annually to members of Parliament in connection with the demands for grants.

(b) None.

(c) None.

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(46)

*ELECTIONS IN SNOW-CLAD AREAS OF PUNJAB

83. Giani G. S. Mussafir: *(a)* Will the Minister of Law be pleased to state whether it is a fact that the areas of Lahaul and Spiti in the Punjab remain snow-clad during most of the year round ?

(b) If the answer to part (a) above be in the affirmative, what arrangement do Government propose to make for holding elections in that area simultaneously with the rest of the Union ?

(c) If not, when do Government propose to hold elections in that area ?

The Minister of Law (Dr. Ambedkar): *(a)* to *(c)*. From a recent report of the Punjab Government it appears that Spiti is usually snow-bound after August, and Lahaul, after October. The question whether elections in these two sparsely populated regions should be held earlier than January next, or if that is not practicable, what special arrangements should be made for holding the elections in January is being

*P. D., Vol. 9, Part I, 22nd August 1951, p. 551.

considered by the Election Commission in consultation with the Punjab Government. An announcement will be made as soon as a decision is reached.

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(47)

*MANUFACTURE OF BALLOT BOXES

84. Shri A. B. Gurung: Will the Minister of Law be pleased to refer to starred question No. 2084 for 10th March 1951 and state the names of firms, with whom the Government of India have placed orders for preparing ballot boxes for the ensuing general elections in Part C States ?

The Minister of Law (Dr. Ambedkar): The Chief Commissioners of all Part C States (except Manipur and Tripura) have placed orders for ballot boxes with Messrs Godrej and Boyce Mfg. Co. Ltd., Bombay, and the Chief Commissioners of Manipur and Tripura have placed orders with Messrs. Bungo Steel Furniture Ltd., Calcutta. The orders have been placed with the approval both of the Government of India and of the Election Commission.

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(48)

**HINDI TRANSLATION OF ACTS

530. Shri Raj Kanwar: Will the Minister of Law be pleased to state whether all the Acts passed since 15th August 1947 have been translated into Hindi ?

The Minister of Law (Dr. Ambedkar): No Sir. But out of 274 Central Acts passed between the 15th August 1947 and the end of the Third Session of Parliament last June, 113 have been translated into Hindi.

Shri Raj Kanwar: When are the remaining Acts going to be translated into Hindi ?

Dr. Ambedkar: I am quite unable to commit myself.

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*P. D., Vol. 9, Part I, 22nd August 1951, p. 562.

** *Ibid.,* 27th August 1951, p. 659.

Seth Govind Das: Have the Government established any special section for that purpose and have some persons been appointed in order that all these Acts may be translated into Hindi ?

Dr. Ambedkar: There is a section in the Law Ministry consisting of Hindi translators who translate the most important Bills passed by Parliament.

Seth Govind Das: Have all the Acts connected with the forthcoming elections been translated into Hindi, and if not, when is that work likely to be completed ?

Dr. Ambedkar: I cannot give a definite answer. So far as my information extends I think it is contemplated to translate those Acts into Hindi.

Shri Sondhi: Will they be done before the General Elections ?

Dr. Ambedkar: I believe so.

Shri Jnani Ram: May I know if the People's Represen-tation Acts have been translated into Hindi ?

Dr. Ambedkar: I think they are under translation.

Shri A. C. Guha : Have the Government any idea of translating these Acts into other Indian languages as well ?

Shri Raj Kanwar: Normally how long after the publication of an Act in English is the translation in Hindi available ?

Dr. Ambedkar: There is no such thing as normality in this.

Shri Amolakh Chand: May I know if the People's Representation Acts would be translated before the elections or after ?

Dr. Ambedkar: It depends upon the capacity of the different departments to undertake this task but I suppose my friend can assume that Government has sense to understand that no purpose would be served in translating them after the elections.

Seth Govind Das: So far as the Acts relating to the elections are concerned, how many of them have been translated into Hindi, how many have been published and how many remain to be published and in what time are they expected to be published ?

Dr. Ambedkar: My friend evidently is under the impression that there is an ocean of laws which deal with

representation or elections. We have got only two small Acts and one of them is the People's Representation Act. I have no doubt that.....

Seth Govind Das: When there are only three Acts pertaining to the elections, one big and two small ones, why is so much time being taken in their translation ?

Dr. Ambedkar: Because there are only about two translators.

Seth Govind Das : Why don't you increase their number then ?

Dr. Ambedkar: Because the Finance Minister would not give the sanction.

Shri Kamath: So far as the translation of these various Acts into Hindi is concerned may, I know if the Government in the Law Ministry or in its Secretariat has standardised Hindi with a standard vocabulary and a standard dictionary of Hindi ?

Dr. Ambedkar: I suppose standardisation of Hindi is something which has to come in the future, unless my friend wants that the Hindi which prevails in U.P. should be accepted as the standard.

Shri Kamath: No, Madhya Pradesh.

Giani G. S. Musafir: Will the Government keep it in mind that the translation should be in simple Hindi so that it may be comprehensible to all ?

Dr. Ambedkar: I think the Government will see to it.

Seth Govind Das : May I suggest to the Hon. Minister that so far as the transaction of Acts is concerned, if permanent hands cannot be added to the section, at least some temporary hands may be engaged for the time being so that their translation may be expedited ?

The Minister of State for Finance (Shri Tyagi): I should like to have notice for consideration of this suggestion.

(49)

*MOCK ELECTIONS

532. Shri Sidhva: Will the Minister of Law be pleased to state :

(a) whether the Election Commissioner has held mock elections at certain places;

(b) If so, the places at which these were held and the number of voters who participated ;

(c) how much time was taken in recording the votes; and

(d) whether the Election Commissioner has formulated his plans for real elections on the basis of the time occupied by such mock elections ?

The Minister of Law (Dr. Ambedkar): *(a)* to *(d).* The Election Commission directed the various State Governments in May 1951, to hold mock elections under all the assumed conditions of polling in order to obtain actual data and experience in the conduct of the forthcoming elections as also to get an idea of the average time required in recording votes. The Commission has asked the State Governments for information as regards places where rehearsals have actually been held, and so far a report has been received only from Orissa. The experience gained at these mock elections is to be taken into account in planning the actual number and the location of the polling stations. The tentative proposals of the State Governments framed on the experience of these mock elections will be published for general information and thereafter finalised in consultation with the Election Commission in the light of the suggestions, if any, received from the public.

Shri Sidhva: In that mock election how many votes were recorded in any one of the States ?

Dr. Ambedkar: I have no information.

Shri Sidhva: What was the opinion of the Election Commissioner regarding the voting by illiterate persons ? Was it very successful ?

*P. D., Vol. 9, Part I, 27th August 1951, p. 664.

Dr. Ambedkar: There is no question of literacy or illiteracy. There was no question of marking in that.

Shri Sidhva: Even then what was the general impression of the Commissioner regarding the mock election ? Does he feel……..

Dr. Ambedkar: I am afraid he has not given me the impression he has formed,

Seth Govind Das : The Hon. Minister has just stated that so far a report from Orissa only has been received and that reports from other Provinces have not been received yet. Have the Government fixed any date by which these mock elections should be held in the States and reports submitted to the Government of India ?

Dr. Ambedkar: I don't think this is a matter in which the Government could assume or arrogate to itself the authority of issuing a directive.

Seth Govind Das: No, Sir, it is not a question of authority

Shri Bhatt: Will the Hon. Minister please tell whether the mock elections that were held were for the State Legislative Assemblies and the House of the People both together ?

Dr. Ambedkar: I believe so.

Shri Chattopadhyaya: Was any such mock election held in any of the Centrally Administered Areas and, if so, why has no report been received?

Dr. Ambedkar: I have really no information as to in what States and whether in Centrally Administered Areas they were held, but I am sure they must have been.

Shri Kamath : Did these mock elections include mock candidates and mock officers also ?

Dr. Ambedkar: I suppose they had scare-crows.

Shri R. Velayudhan: From the impression gained from this rehearsal of mock election, will the next general election also be a mock election ?

Dr. Ambedkar: Very likely.

Shri Sidhva: May I know the total number of voters who participated in this mock election?

Dr. Ambedkar: I have no information.

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(50)

*OBJECTIONS TO ELECTORAL ROLLS

534. Shri Kamath: Will the Minister of Law be pleased to state:

(a) The total number of claims and objections filed in respect of the preliminary electoral rolls in each of the Part "A", Part "B" and Part "C" States ;

(b) the number disposed of so far in each State; and

(c) the number of claims and objections allowed so far in each State ?

The Minister of Law (Dr. Abedkar): *(a)* to *(c)*. A statement showing the position with regard to the number of claims and objections received and disposed of in the various States as on 1st August 1951, is laid on the Table of the House. *(See* Appendix IV, Annexure No. 17.)

Shri Kamath : The statement laid on the Table shows, Sir, that in Hyderabad also 4,284 women voters were disenfranchised. Were they disenfranchised for the same reasons as women in Rajasthan were disenfranchised or for different reasons ?

Dr. Ambedkar: I am afraid I must have notice of the question.

Shri Kamath : Is it a fact that the disenfranchised women of Rajasthan or their organisations, or their representatives have recently made a representation to the Government for getting their disenfranchisement removed ?

Dr. Ambedkar: Yes, they have.

Shri Kamath: Is that representation of theirs under active consideration ?

Dr. Ambedkar : We are considering it but we are not quite certain whether we can give any relief.

*P. D., Vol. 9, Part I, 27th August 1951, p. 667.

Shri Kamath: When, Sir, are the final electoral rolls likely to be published ?

Dr. Ambedkar: I suppose pretty soon—I have not got the exact date.

Shri Kamath: No date has been fixed so far ?

Dr. Ambedkar: Well, it certainly will be pretty soon.

Shrimati Renuka Ray : Will Government take steps to see that relief is given to the disenfranchised women in Rajasthan?

Dr. Ambedkar: The question of the relief really depends upon whether we can finish the registration of these women on the electoral rolls, allow sufficient time for raising objections and for the disposal of objections so that the electoral rolls could be finalised before the date of election. All these things hang together.

Shrimati Renuka Ray: Considering that it is due to no fault on their part and that the enumerators were not instructed properly either, does not Government think it necessary to take steps to see that this defect is remedied and those women are enlisted as voters ?

Dr. Ambedkar: Well, I am afraid we are not discussing who is at fault—we are discussing what the fact is. ,

Shri R. C. Upadhyaya: Is it a fact that the Prime Minister has assured that delegation of women from Rajasthan that something will be done in that direction ?

Dr. Ambedkar: I am sure about it that the Prime Minister's assurance must be subject to the law of the land.

Shri Kamath: Did, Sir, the Election Commission receive complaints that in certain areas, in certain States even dead persons were brought on the preliminary rolls ?

Dr. Ambedkar: It does happen—I am sure about it.

Shri Kamath: It did happen ?

Shri Sondhi : Mr. Deputy Speaker, in view of the fact that the Prime Minister is here in the House would it not be better if he made a statement in this behalf?

The Prime Minister (Shri Jawaharlal Nehru): My colleague, the Law Minister has made it quite clear that neither I nor any other member of the Government can give an assurance against the law—it is obvious. In this matter I have taken very particular care not to interfere in any way with the discretion of the Election Commissioner. All I have done is if anybody has come to me I have sent him on, or sent her on, to the Election Commissioner. I have certainly, when this matter came before me, expressed my sympathy with the fact that a large number of women voters have been left out and I think the whole House will feel that way; the Electtion Commissioner himself wants to put them in subject to the law. How that is to be done is entirely a matter for the Election Commissioner. All sympathy was there but the only assurance I gave was of my sympathy but not of how it is to be done.

Shri Kamath: As regards the electoral rolls, has the Prime Minister received a deputation from only Rajasthan women or from anyone else also ?

Shri Jawaharlal Nehru: So far as I can remember they were only from Rajasthan—there may be one or two sympathisers with them from other States.

Seth Govind Das: So far as law is concerned, it is not unchangeable. Changes always occur in the law. Then, is it not possible to do something to include these women in the lists for there is still time for the elections to take place ? The measure relating to Part C States has come up and the present session of Parliament is also going to continue for some time. Is not then some arrangement possible to remove these difficulties ?

Dr. Ambedkar: I would like to tell my hon. friend that it would require exactly not less than two months if relief is to be given from now. That means the election will have to be postponed.

Shri R. C. Upadhyaya: Cannot the Government amend by proper legislation the mention of Mrs. so-and-so in the electoral rolls?

The Minister of State for Finance (Shri Tyagi): Husband's name cannot be amended.

Shri R. C. Upadhyaya: Not husband's name but.....

Dr. Ambedkar: The procedure for registration has been laid down by the law and that procedure must be followed.

Shri R. C. Upadhyaya: Cannot it be changed ?

Dr. Ambedkar: Well, the law can be changed—it is in the hands of Parliament. I don't know how long the law will take to be amended if it is placed before Parliament.

An hon. Member: Five minutes.

Shrimati Renuka Ray: If the law is changed then these could be included in the voter's list. Surely, that is the only possible way. Therefore, will Government consider placing a Bill before Parliament ?

Dr. Ambedkar: It seems to me difficult to entertain a proposition that there should be one law for males and one law for females.

Mr. Deputy Speaker: We are arguing this matter out. Next question.

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(51)

*ELECTION COMMISSIONERS IN STATES

535. Shri Kamath: Will the Minister of Law be pleased to state:

(*a*) whether Regional Election Commissioners have been appointed and the requisite electoral machinery set up in each of the States ; and

(*b*) if not, by what date, it is proposed to be constituted ?

The Minister of Law (Dr. Ambedkar): (*a*) and (*b*) So far, no Regional Election Commissioners have been appointed, but the question of appointing 3 or 4 such officers is under active consideration. I pressume that by the expression "requisite electoral machinery" the hon. Member means the various officers to be appointed in connection with the actual conduct of elections. The position is as follows. Steps

*P. D., Vol. 9, Part I, 27th August 1951, p. 670.

have been tken by the Election Commission for formally appointing Electoral Registration Officers', Returning Officers and Assistant Returning Officers for each constituency in all the States as soon as the modifications made by Parliament in the various Delimitation Orders are notified and the constituencies finally determined. The Returning Officers, after they are appointed, will appoint the Presiding and Polling Officers for each polling station. These latter appointments are expected to be completed by the end of November except that in areas, if any, where elections may have to be held in October they will be completed by the end of September, 1951.

Shri Kamath: Has, Sir, any representation been received from any of the Part A or Part B State Governments to the effect that their law and order machinery or the other requisite machinery for polling and other purposes will not be able to cope with the huge work involved in the election and have they asked for any assistance in this regard so far as officers and others are concerned from the Centre ?

Dr. Ambedkar: I have no knowlede on this point.

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(52)

*ELECTORAL ROLLS

547. Shri Jnani Ram: Will the Minister of Law be pleased to state :

(*a*) the States which have completed the work of publication of electoral rolls; and

(*b*) the cost incurred by such States and the amount contributed by the Central Government ?

The Minister of Law (Dr. Ambedkar): (*a*) The electoral rolls are expected to be finally published in all the States by the end of this month.

(*b*) Until the work of final publication of the electoral rolls is completed, it is not possible to ascertain the exact cost

*P. D., Vol. 9, Part I, 27th August 1951, p. 685.

incurred by the State Government on this account and the Centre's share thereof. I may however mention that during the last two financial years the amount contributed by the Government of India to Part A and Part B States as their half-share of the extra expenditure incurred by the latter on the preparation of electoral rolls was approximately 2 crores and 7 lakhs.

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(53)

*MOCK ELECTIONS

575. Shri Bhatt: Will the Minister of Law be pleased to state :

(*a*) at how many rural and urban places, Statewise, mock elections were held ;

(*b*) how many voters at each place participated in the mock elections ;

(*c*) whether there were separate booths for women;

(*d*) how much average time was taken by each voter to cast his vote in rural and urban polling booths respectively;

(*e*) the percentage of votes cast;

(*f*) whether there was personation and challenged votes ; and

(*g*) whether women took more time than men to cast their votes in rural and urban areas ?

The Minister of Law (Dr. Ambedkar): (*a*) to (*g*) The information is being collected by the Election Commission and will be laid on the Table of the House in due course.

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(54)

*ARTICLE 171 (b) OF THE CONSTITUTION

576. Shri Deogirikar: (*a*) Will the Minister of Law be pleased to state whether qualifications as equivalent to that of a graduate for electorates to elect members of the Legislative Council of a State as mentioned in Article 171(*b*) of the Constitution of India have been prescribed by or under any law made by Parliament ?

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* P. D., Vol. 9, Part I, 27th August 1951, p. 698.

(*b*) If so, what are those qualifications ?

(*c*) If not, when will such qualifications be prescribed ?

The Minister of Law (Dr. Ambedkar): (*a*) The hon. Member's attention is invited to section 27(*3*) of the Representation of the People Act, 1950, which authorises the State Governments to specify, with the concurrence of the Election Commission, the qualifications which shall be deemed to be equivalent to that of graduate of a University in India.

(*b*) and (*c*) Notifications laying down the qualifications referred to above have been issued by the Governments of all the States which are to have Legislative Councils, namely, Bihar, Bombay, Madras, Punjab, Uttar Pradesh, West Bengal and Mysore. A copy each of these notifications is available in the Library of the House.

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(55)

*MAPS OF CONSTITUENCIES

748. Shri Raj Kanwar: Will the Minister of Law be pleased to state whether Government intend to publish separately for each of the Part A, Part B and Part C States one or more maps showing the delimitation of constituencies as finally determined for purposes of General Elections ?

The Minister of Law (Dr. Ambedkar): The State Governments have been requested to prepare maps showing separately the Parliamentary and Assembly constituencies for each State as finally determined.

Shri Raj Kanwar: When will these maps be available to the public ?

Dr. Ambedkar: As soon as they are ready, I suppose.

Shri Raj Kanwar: When is that going to be, Sir ?

Dr. Ambedkar: Before the Elections take place.

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*P. D., Vol. 9, Part I, 4th September 1951, p. 941

Mr. Deputy Speaker: The Hon. Minister, if he has got any more definite information, he may give the House. The House expects him to give a resonable period.

Dr. Ambedkar : All I can say is to request my hon. friend to go and contact the Election Commissioner. His office will probably give all the information that he needs.

Mr. Deputy Speaker: The Hon. Minister is expected to be in touch with the Election Commissioner. It is his portfolio. There is no good generally giving such answers. The hon. Member can draw his own inferences. But, he expects that the Government will be able to say, within a month or two months and so on. All the three answers do not appear to be definite at all.

Dr. Ambedkar: I have no information with me on the point.

Prof. Ranga: Mr. Deputy Speaker, my objection is that any of the Hon. Ministers should get up and ask us to go to one of his subordinates and get the information is really derogatory to the dignity of the House.

Mr. Deputy Speaker: I think the Hon. Law Minister only meant that whether information could be had from official sources, they must exhaust all that before taking the time of the House with respect to such matters as are available.

Dr. Ambedkar: I am sure about it, that my hon. friend Prof. Ranga goes to officials on many other occasions without feeling any loss of dignity.

Prof. Ranga: This sort of answer raises another controversy. We may or we may not go. But, it is not for the Minister to ask us when we ask for information that we should go to one of his subordinates and get that information, instead of himself getting the information.

Pandit Thakur Das Bhargava: Will the Hon. Ministers themselves not resent if Members went for information to the officers subordinate to them apart from the question of the dignity of Members ?

Mr. Deputy Speaker: I will pass on to another question. It is usual to refer to books and officers before coming to the House.

Shri A. C. Guha : We have been issued a circular that we should not go and see the officers. How can the Hon. Minister ask us to go to an officer and get the information ? It is the function of the Minister to supply the information.

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(56)

*TRIBAL CHRISTIANS AND GENERAL ELECTIONS

770. Shri S. C. Samanta: Will the Minister of Law be pleased to state :

(*a*) whether tribal Christians (Adibasis) will be debarred from contesting the coming general elections from Scheduled tribes constituencies as Scheduled tribes candidates; and

(*b*) if there be no bar, whether their elections will be questioned in and taken up as election disputes by the Election Tribunals ?

The Minister of Law (Dr. Ambedkar): (*a*) The hon. Member is in effect asking me for an interpretation of the relevant legal provisions contained in the Representation of the People Act, 1951, and the Constitution (Scheduled Tribes) Order, 1950. A candidate for a seat reserved for the scheduled tribes in any State must be a member of a Scheduled tribes as listed in the Scheduled Tribes Order of the President. I cannot say whether the persons referred to in the question as "tribal Christians" are members of any scheduled tribe or not.

As regards part (*b*) of the question the attention of the hon. Member is invited to section 100 of the Representation of the People Act, 1951, which contains the grounds on which an election may be called in question. In particular, he may see sub-section (2), clause (*c*).

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*P. D., Vol. 9, Part I, 4th September 1951, p. 972.

(57)

*OFFICERS IN THE MINISTRY OF LAW

227. Prof. K. T. Shah: Will the Minister of Law be pleased to state:

(*a*) the number of (*i*) Gazetted, and of (*ii*) non-Gazetted officers, clerks and Class IV servants in his secretariat, on:

(*i*) 15th August 1947, (*ii*) 31st March 1948; (*iii*) 31st March 1949; (*iv*) 31st March 1950; (*v*) 31st March 1951; and

(*b*) the number of officers, clerks and Class IV servants, appointed temporarily in the first instance and subsequently (*i*) made permanent, (*ii*) retired or (*iii*) retrenched, during each of the years 1947-48 (post-partition), 1948-49, 1949-50 and 1950-51 ?

The Minister of Law (Dr. Ambedkar): The information asked for is not readily available. Its collection will involve a disproportionate expenditure of time and labour.

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(58)

**LIST OF POLLING STATIONS

1069. Pandit Kunzru: Will the Minister of Law be pleased to state :

(*a*) whether the Election Commission has asked the Bombay State Government or the District Magistrates to prepare a list of the polling stations and issued instructions that the lists should not he shown to any party before they are finally approved :

(*b*) whether the Bombay Government have in spite of the Election Commission's instructions, issued orders to the District Magistrate of any districts that the preliminary lists should be shown to the Vice-Chairman of Rural Development Boards :

(*c*) whether these Vice-Chairmen are members of District Congress Committees and in many cases their Chairmen ; and

(*d*) If the answer to parts (*a*) and (*b*) above be in the affirmative, what action Government propose to take in the matter ?

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*P. D., Vol. 9, Part I, 12th Septembert 1951, p. 1270.

**_Ibid.,_ 17th September 1951, p. 1273.

The Minister of Law (Dr. Ambedkar): (*a*) No. The Election Commission did not issue instructions that the lists of polling stations should not be shown to any political party before final approval. On the contrary, the Commission suggested to the State Governments that their tentative plans regarding polling stations might be circulated to the different political parties, and also given as much publicity as possible. A copy of the Commission's letter dated 26th May, 1951 to all State Governments is placed on the Table of the House for information. (*See* Appendix VII, Annexure No. 9).

(*b*) The Government of Bombay issued instructions to the Collectors that the tentative plans as approved by Government should be shown to the political parties and members of the public. These plans are being kept at the District Headquarters and Taluka Headquarters in that State for inspection, and the Collectors have been asked to consider carefully the suggestions or criticisms from the public. With a view to facilitating their work the Collectors, who are Chairmen of the Rural Development Boards, were also instructed by the Government of Bombay to show the plans to the Vice-. Chairmen of those Boards.

(*c*) Some of the Vice-Chairmen of the Rural Development Boards in Bombay are members of District Congress Committees, and in a few cases their Chairmen.

(*d*) Does not arise.

Pandit Kunzra: May I ask whether as a matter of fact the preliminary lists of polling stations have been shown to other persons than the Vice-Chairmen of the Rural Development Boards in the Bombay State ?

Dr. Ambedkar: I have no such information.

Pandit Kunzru: Why was it necessary then for the Bombay Government to ask the District Magistrates to show these preliminary lists of polling stations to the Vice-Chairmen of the Rural Development Boards if the instructions issued by the Election Commission were of a general character relating to all political parties ?

Dr. Ambedkar: That was probably because it was necessary to collect the organised opinion of the people in that area.

Pandit Thakur Das Bhargava: Is it a fact that the lists of the electors are arranged alphabetically for each constituency?

Dr. Ambedkar: I am afraid I have not seen the electoral roll myself. Therefore, I cannot say. Probably, the hon. Member has more information.

Pandit Thakur Das Bhagava: Is it a fact that since there are no separate lists for each polling station, persons living in the area of a particular polling station will have to travel several miles before they will be able to vote in that constituency ?

Dr. Ambedkar: I do not think so. I think all people would be informed as to the number of voters who have to go to a particular polling station.

Pandit Thakur Das Bhargava: All these lists are arranged alphabetically. This means that there will be no separate list for each polling station. Unless there is a separate list for each polling station, people will not know where they have to go and they will have to travel several miles.

Dr. Ambedkar: I am not aware that the voters' lists are arranged alphabetically.

Mr. Deputy Speaker: I think they are arranged alphabetically and a list is hung in each polling station.

Dr. Ambedkar: I will make enquiries about it.

Mr. Deputy Speaker: Anyway, it does not arise out of this question.

Pandit Kunzru: May I ask the Law Minister whether instructions of the kind issued by the Election Commission to the Bombay State have been issued in respect of other States also ?

Dr. Ambedkar: That letter was a general letter issued to all the States.

Pandit Kunzru: Can he tell me whether these preliminary lists of polling stations have been shown to members of the political parties in the other States ?

Dr. Ambedkar: My friend is assuming that there are political parties everywhere. If there are any political parties, I am sure the State Government will take steps to show the

lists to them in the same way as they are showing to the others.

Pandit Kunzru: My hon. Friend cannot be such a simpleton as to believe that there is only one political party in the country.

Dr. Ambedkar: The others are speculative perhaps.

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(59)

*LEPROSY

1074. Shri Sivan Pillay: Will the Minister of Health be pleased to state :

(*a*) whether Government have got accurate statistics regarding persons affected with the disease of leprosy, state-wise;

(*b*) if so, the State in India which has the highest percentage of the incidence of the disease in relation to population; and

(*c*) the steps taken by Government to combat this dreadful disease ?

The Minister of Law (Dr. Ambedkar) : (*a*) and (*b*) As often stated before, no accurate statistics are available.

(*c*) The matter is primarily the concern of State Governments. The Government of India have had for some time a plan to establish a Central Leprosy Teaching and Research Institute in the country whose objects it will be to undertake research into the problems relating to leprosy, to promote field studies for the application of the results of research, to train leprosy workers, to give technical advice and guidance for anti-leprosy work and to participate actively in the organisation and development of leprosy institutes in States. Financial stringency alone has kept the scheme from maturing. But voluntary bodies and some of the States are doing good work among sufferers from the disease. Research is also going on.

Shri Sivan Pillay: May I know, whether Government are aware that a Central Leprosy Relief Committee has been formed by Gandhi

*P. D., Vol. 9, Part I, 17th September 1951, p. 1378.

Smarak Nidhi ? In what way do Government propose to co-operate with it in the eradication of this scourge ?

Dr. Ambedkar: Government is bound to co-operate in all possible ways it can.

Shri Sivan Pillay: May I know whether there are no leprosy clinics at all, and if so which is that unfortunate State ?

Dr. Ambedkar: I can believe that there may be many States where there are no such clinics.

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(60)

*LADY HARDINGE MEDICAL COLLEGE

1084. Shri Alexander : Will the Minister of Health be pleased to state ?

(*a*) the financial aid given to the Lady Hardinge Medical College by the Government of India;

(*b*) whether the Government of India are represented on its governing body and if so, by how many members;

(*b*) whether this institution is intended to serve the whole of India;

(*d*) whether any principle is observed in the matter of allocation of seats to the various States; and

(*e*) the number of students admitted this year State-wise ?

The Minister of Law (Dr. Ambedkar): (*a*) The grants paid to the Lady Hardinge Medical College vary from year to year. The grants paid during the last three years are as follows:

1948-49	...	Rs. 5,23,100
1949-50	...	Rs. 10,80,576
1950-51	...	Rs. 9,44,000

(*b*) The Government of India as such are not represented on the Governing Body. Seven officials are, however, members of that Body.

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*P. D., Vol. 9, Part I, 17th September 1951, p. 1388.

(*c*) Yes.

(*d*) While every effort is made by the College authorities to admit students from as many States as possible provided the applicants are otherwise suitable, preference is given to the Centrally Administered Areas and those States where facilities for Medical education are limited. The question of the adequacy of the rules of admission to the College from the point of view of the maintenance of the All India character of the Institution is, however, engaging the attention of Government.

(*e*) A statement containing the required information is laid on the Table of the House. (See Appendix VII, Annexure No. 12).

Shri Alexander: With reference to answer to part (*a*) may I know whether the Government have received any complaints against the administration of the College and if so, whether the Government propose to take over the administration of the College ?

Dr. Ambedkar: I have no information.

Shri Kamath: Do not those seven officials mentioned by the Minister, represented the Government which has nominated them in the Committee ?

Dr. Ambedkar: I must have notice of the question.

Shri Kamath: Has the Hon. Minister all the names of the officials, their designations or their ranks ?

Dr. Ambedkar: I must also have notice for this question.

Shri Brajeshwar Prasad: May I know whether the Secretary of the Finance Ministry is a Member of this Committee in an individual capacity or in his official capacity ?

Dr. Ambedkar : I would like my hon. colleague to answer that question.

The Minister of Finance (Shri C. D. Deshmukh): In his official capacity.

Shri Kamath: Is it a fact that at no point of administration or the Committee's work the Minister of Health comes into contact with this institution ?

Dr. Ambedkar: She must be, I am sure.

Shri Kamath: Government is not represented at all. He does not know.

Dr. Ambedkar: I cannot say what is the original constitution of this body.

Mr. Deputy Speaker: Next question, Mr. Guha.

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(61)

*TRAINING OF MIDWIVES AND NURSES

1081. Dr. M. V. Gangadhara Siva: (*a*) Will the Minister of Health be pleased to state the names of the institutions in Delhi maintained by Government and those which receive Government grant for training midwives, nurses and health visitors in Delhi ?

(*b*) What is the number of students of each of these categories fixed for admission to these institutions ?

(*c*) Is it a fact that more students than can be admitted in these institutions apply every year for admission ?

(*d*) If so, how many approximately are refused admission ?

The Minister of Law (Dr. Ambedkar): (*a*) and (*b*) A statement containing the required information is laid on the Table of the House (See Appendix VII, Annexure No. 13.)

(*c*) Yes.

(*d*) The information is being collected and will be laid on the Table of the House in due course.

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(62)

**EMETINE

1093. Shri Kamath: Will the Minister of Health be pleased to state :

(*a*) what steps have been taken in the past and are being taken at present to cultivate in India Ipecacuanha plants, the roots of which yield Emetine, a specific for amoebic dysentery;

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*P. D., Vol. 9, Part I, 17th September 1951, p. 1403.

***Ibid.,* p. 1405.

(*b*) the incidence of amoebic dysentery in India;

(*c*) the quantity and value of Emetine and Ipecac root imported annually into India and from which countries;

(*d*) whether it is a fact that some work has been done in the direction of Ipecac cultivation in West Bengal by the Cinchona Directorate, if so, with what result; and

(*e*) whether it is proposed to extend the existing West Bengal Ipecac plantations, and if so, what steps are contemplated ?

The Minister of Law (Dr. Ambedkar): (*a*) It is understood that difficulties attending its cultivation in India have so far deterred its being taken up on a commercial scale. The Indian Council of Agricultural Research is carrying on experimental cultivation of ipecacuanha and has included it in the co-ordinated scheme formulated by the Council for the cultivation of medicinal plants in Coimbatore, Panchagani and Darjeeling;

(*b*) The incidence of emoebic dysentry is considered to be high particularly in the Eastern and Southern parts of India, namely, Madras and West Bengal. As the disease is not notifiable, no statistics are however maintained;

(*c*) Statistics regarding the imports of Emetine Hydrocholoride and Ipecac root are not available;

(*d*) and (*e*). The information has been called for from the Government of West Bengal and will be laid on the Table of the House in due course;

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(63)

*AYURVEDIC RESEARCH INSTITUTE

1094. Dr. V. Subramaniam : (*a*) Will the Minister of Health be pleased to state whether the scheme for the establishment of an Ayurvedic Research Institute as per the recommendations of the Committee on indigenous systems of medicine (Pandit Committee) has been placed before the Standing Committee of Parliament for the Ministry of Health and the Standing Finance Committee ?

(*b*) If so, what are their recommendations and has the scheme since been sanctioned ?

*P. D., Vol. 9, Part I, 17th September 1951, p. 1406.

The Minister of Law (Dr. Ambedkar): (a) and (*b*) The scheme is under active consideration. It will be shortly placed for approval before the Standing Committee of Parliament for the Ministry of Health and the Standing Finance Committee.

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(64)

*DIRECTORATE OP HOUSING

259. Shri Kamath : Will the Minister of Health be pleased to state:

(*a*) the date on which the Directorate of Housing was set up ;

(*b*) the date on which it came to an end;

(*c*) the nature and volume of work accomplished by the Directorate during this period; and

(*d*) what were the qualifications of the Director of Housing ?

The Minister of Law (Dr. Ambedkar): (*a*) and (*b*) No separate Directorate of Housing as such was set up. A Directorate of Housing with a skeletion personal staff was appointed with effect from the 4th October, 1948. The Director of Housing relinquished charge of his office on the 1st July 1951.

(*c*) The Director of Housing gave advice to the various Ministers of the Government of India, the State Governments and Local Bodies on questions relating to housing. Most of his time was however taken up with the construction and management of the Government Housing Factory.

(*d*) The attention of the hon. Members is invited to the reply given to part (*c*) of his Starred Question No. 390 on the 7th December, 1949.

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*P. D., Vol. 9, Part I, 17th September 1951, p. 1413.

(65)

*LEPERS

1176. Dr. Deshmukh: (*a*) Will the Minister of health be pleased to refer to the answer given to starred question No. 1326 asked on the 8th April 1948, regarding lepers and leper-asylums in India and state whether Dr. Dharmendra who was deputed to U.S.A., U.K., South America and the Philippines has since returned ;

(*b*) If so, what is the result of his tour;

(*c*) What work is he doing at present;

(*d*) Has the treatment of the lepers undergone any radical change since his return and if so, in what way;

(*e*) What steps have been taken for the establishment of a Central Teaching and Research Institute for Leprosy;

(*f*) Has a permanent cure as well as an effective preventive against leprosy now been discovered;

(*g*) If so, to what extent are the people of India benefiting from this?

The Minister of Law(Dr. Ambedkar): (*a*) Yes, on the 12th November, 1948.

(*b*) During his tour he studied anti-leprosy work carried on in the various countries he visited.

(*c*) He is at present the Head of the Leprosy Research Department at the Calcutta School of Tropical Medicine. His activities include research, teaching and clinical work. He is also the Editor of the Journal "Leprosy in India" published by the Hind Kusht Nivaran Sangh.

(*d*) With the introduction of sulphone treatment for leprosy the duration of treatment has been shortened.

(*e*) The Central Leprosy Institute Committee recommended the location of the institute in Madras State, by taking over and expanding the Lady Willingdon Leprosy Sanatorium at Tirumani, and the silver Jubilee Children's Clinic, Saidapet, both in Chingleput District, Madras State, on certain financial conditions being satisfied by the Government of Madras. The

*P. D., Vol. 9, Part I, 20th September 1951, p. 1527.

Madras Government did not, however, agree to the conditions. The question of locating the institute in Orissa is now under consideration.

(*f*) No. It is too early to assess the value of sub phone treatment.

(*g*) Does not arise.

Dr. Deshmukh: May I know what are the reasons why Orissa is being chosen and why Madhya Pradesh has not been chosen ? Is it not a fact, Sir, that the largest number of leprosy homes are situated in Madhya Pradesh ?

Dr. Ambedkar: I do not suppose that the Madhya Pradesh Government ever expressed any desire to the Central Government that that State might also be considered for the purpose of the location of the Institute.

Dr. Deshmukh: Is there any proposal before the Central Government to give any financial assistance to the asylumes for lepers ?

Dr. Ambedkar: I suppose wherever possible they would give assistance.

Mr. Deputy Speaker: I can say generally when one Hon. Minister answers for another Minister, with respect to supplementary questions that the hon. Member has to ask, he need not go far out of the exact question. He might try to limit and reserve these questions. I do not mean to say that they are irrelevent; they do arise but the Hon. Minister cannot be expected to answer them.

Dr. Deshmukh: When another Minister answering questions for some one else happens to be a habitual affair, what are we to do, Sir?

Mr. Deputy Speaker: Next Question.

Shri Jangde : One question, Sir. With the Hon. Minister kindly state what expenditure was incurred on the tour of Dr. Dharmendra who was deputed to U.S.A., U.K., South America and Philippines to study the work being carried on there in connection with leprosy ?

Dr. Ambedkar: From the information that is at my disposal here, I find that to meet the cost of the attendance of

Dr. Dharmendra at the International Leprosy Conference in Cuba and his study tour abroad, the Government of India sanctioned a sum of Rs. 17,350 to the British Empire Leprosy Relief Association. Dr. Dharmendra's pay for the period of his deputation was however met by the Indian Council of Medical Research.

Dr. Deshmukh : Has the cost of the treatment of a patient been calculated so far as this new treatment is concerned ? Is it very costly ?

Dr. Ambedkar: I am unable to answer this question now. I should like to have notice.

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(66)

*HARTAL OF REFUGEE STALL HOLDERS

1185. Shri Jnani Ram : Will the Minister of Health be pleased to state :

(*a*) whether the refugee stall holders of Irwin Road and Panchkuina Road, New Delhi are observing hartal since the 27th August, 1951;

(*b*) if so the reasons for the same; and

(c) whether any enquiry has been ordered in the matter ?

The Minister of Law (Dr. Ambedkar): (*a*) The stallholders observed hartal for 3 days from the 27th to 29th August, 1951.

(*b*) Although there had been disputes between the New Delhi Municipal Committee and the stallholders for some time, it is understood that the immediate cause of the hartal was the launching of prosecutions by the Committee against a number of stallholders for contravening municipal byelaws.

(*c*) The question of an enquiry does not arise.

Shri Jnani Ram: May I know whether the grievances of the stallholders have now been removed ?

D., Vol. 9, Part I, 20th September 1951, p. 1538

Dr. Ambedkar: There are hardly any greivances. From the papers that were handed over to me, it seems to me that the dispute is purely of a legal character. The municipality holds that they are licencees while the stallholders claim that they are lessees. The municipality says that since they are licencees, the municipality is entitled to remove them without any notice, while the stall-holders say that they are lessees and they must be governed by the terms of their leases. It is purely a legal dispute which can only be adjudicated by some court or judicial authority.

Shri Sidhva: Do these stall-holders pay rent under certain agreements to the effect that they will be known as licencees ?

Dr. Ambedkar: So far as I could understand and I speak subject to correction—they have been allowed to just sit and squat and do their business for the time being. But they say that they have been squatting so long that their licences have now matured into leases.

Several Hon. Members: No, they are not squatters.

Mr. Deputy Speaker : Hon. Members cannot be educated in law. They probably want to know the difference between a licence and a lease.

Shri Sidhva: My question was whether they pay rents ?

Mr. Deputy Speaker: I am not going to allow opinions on legal questions.

Shri Sarangdhar Das: Besides the legal aspect of this matter, have there been any complaints about the non-availability of water and lack of sanitary arrangements in the places where the stalls have been built ?

Mr. Deputy speaker: It does not arise out of this question. Was *it* for want of these amenities that the strike was started ?

Shri Sarangdhar Das: This was also a part of their grievances.

Dr. Ambedkar: So far as I know only because of the prosecutions launched by the Municipal Committee did the strike take place.

(67)

*PETITION OF MAHILA SAMITI, JAIPUR, REGARDING WOMEN VOTERS OF RAJASTHAN

1266. Shrimati Durgabai (on behalf of Shrimati Renuka Ray): (*a*) Will the Minister of Law be pleased to refer to the answers given to supplementary questions raised on Starred Question No. 534 asked on the 27th August, 1951 and state whether the omission of the names of women voters was due to the fact that their proper names were not initially put down by the officials who prepared the lists ;

(*b*) Is it a fact that these officials did not get instructions to take proper names of the women concerned which resulted in the omission of their names from the electoral rolls ?

The Minister of Law (Dr. Ambedkar): (*a*) No, Sir. The officials who prepared the lists initially were unable to get the real names of women voters in some States. I understand that this was due to the disinclination of the women, as well as their relatives, to disclose their names.

(*b*) The Election Commission had issued specific instructions to State Governments that women voters must be registered by their proper names and not as "wife of" or "daughter of" and so. The State Governments were also instructed to make every effort through governmental agencies to ascertain the real names of women voters who were not registered on the rolls by their actual names. The public were so invited to assist in this task. It was not due to lack of proper instructions that the names could not be entered in the rolls in the prescribed manner.

Shrimati Durgabai: Sir, will you be so good as to allow one or two supplementary questions ?

Mr. Deputy Speaker: No, this is not the Question-hour.

Shri Sondhi: And the hon. Member knows the rules herself.

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*P. D., Vol. 10, Part I, 25th September 1951, p. 1666.

(68)

*HINDU DIVORCE

1412. Shrimati Jayashri: Will the Minister of Law be pleased to state :

(*a*) the names of States where legislation permitting Divorce of Hindu marriages is in force;

(*b*) the number of applications for Divorce received by courts in these States during the year 1950;

(*c*) the number of applicants granted divorce in 1950;

(*d*) the number of applications rejected during the year 1950 ; and

(*e*) the total number of male and female applicants during the year 1950 ?

The Minister of Law (Dr. Ambedkar): (*a*) As far as I am aware, legislation permitting divorce among Hindus is in force in Bombay and Madras only.

(*b*) to (*e*) The exact figures for the year 1950 are not available. I understand from Bombay that the figures in regard to that State for the period from 12th May, 1947, when the Act came into force to the end of June, 1950 are as follows :

Total number of applications	...	5,356
Number of male applicants	...	2,452
Number of Female applicants	...	2,904
Number of applicants granted divorce	...	2,756
Number of applications rejected	...	1,164

I have not received any information from Madras so far.

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*P. D., Vol. 10, Part I, 28th September 1951, p. 1813.

(69)

*PREVENTION OF HINDU BIGAMOUS MARRIAGES ACT

1413. Shrimati Jayashri : Will the Minister of Law be pleased to state:

(*a*) the names of the States where legislation for the Prevention of Hindu Bigamous Marriages is in force;

(*b*) the number of cases of marriages performed in contravention of provisions of the Act, in the year 1950 ; and

(*c*) the cases which ended in convinction, during the year 1950?

The Minister of Law (Dr. Ambedkar): (*a*) As far as I am aware, legislation for the prevention of bigamous marriages among Hindus is in force in Bombay and Madras only.

(*b*) and (*c*). The exact figures for the year 1950 are not available. I understand, however, from Bombay, that the number of marriages performed in contravention of the Bombay Act between 6th November, 1946, when it came into force, and 31st August, 1950, is 1,934, and the number of cases which ended in conviction during the same period in that State is 756. I have not received any information from Madras so far.

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* P. D., Vol. 10, Part I, 28th September 1951, p. 1814.

ANNEXURE

(A)

*LEGAL PRACTITIONERS AND BAR COUNCILS (AMENDMENT) BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law)**:** Sir, I move :

> "That the Bill further to amend the Legal Practioners Act, 1879, and the Indian Bar Councils Act, 1926, be continued."

Shri Biswanath Das : (Orissa : General): May I know the stage at which this Bill stands ?

The Honourable Dr. B. R, Ambedkar: It was merely introduced.

Mr. Speaker: The question is :

> "That the Bill further to amend the Legal Practioners Act, 1879, and the Indian Bar Councils Act, 1926, be continued."

The motion was adopted.

(B)

**PRESS (SPECIAL POWERS) BILL

The Honourable Sardar Vallabhbhai Patel: Sir, I move:

That for clause 17 of the Bill, the following clause be substituted, namely:

> "Repeal of Ordinance X of 1947
>
> '17. The Press (Special Powers) (No. 2) Ordinance, 1947, is hereby repealed'."

Mr. Speaker: The words on the left side appear to be a marginal note.

The Honourable Dr. B. R. Ambedkar (Minister for Law)**:** Those words need not be put.

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* C. A. (Leg.). D., Vol. 1, Part II, 17th November 1947, p. 40.

***Ibid.,* 20th November 1947, p. 353.

***Mr. Speaker:** I shall take up this amendment after the Honourable Minister has moved that the Bill as amended be passed.

The Honourable Dr. B. R. Ambedkar: Sir, may I with your permission go back to clause 2 and move that for the word "something" in the clause the word "anything" be substituted. That is the more appropriate word that should have been used. There was an amendment but unfortunately my honourable Friend did not move it.

Mr. Naziruddin Ahmad: I was too late and that was the reason.

(C)

**DISPLACED PERSONS (LEGAL PROCEEDINGS) BILL

The Honourable Dr. B. R. Ambedkar (Minister of Law)**:** Sir, I beg to move for leave to introduce a Bill to make special provision for the relief of displaced persons in respect of certain legal proceedings.

Mr. Speaker: The question is:

> "That leave be granted to introduce a Bill to make special provision for the relief of displaced persons in respect of certain legal proceedings."

The motion was adopted.

The Honourable Dr. B. R. Ambedkar: Sir, I introduce the Bill.

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*C. A. (Leg). D., Vol. 1, Part II, 20th November 1947, p. 355.

***Ibid.,* Vol. 3, Part II, 31st March 1949, p. 2141.

(D)

*DEMAND FOR SUPPLEMENTARY GRANTS FOR 1948-49 (ADMINISTRATION OF JUSTICE)

Mr. Speaker: I think then, I should first call upon the Honourable Law Minister to reply to Demand No. 34. I have to put it to vote. I thought the honourable Member wanted to speak on that.

Shri R. K. Sidhva: No, Sir.

The Honourable Dr. B. R. Ambedkar (Minister of Law)**:** Sir, this item 'Administration of Justice' really belongs to the Home Ministry, because they are in charge of the subject, but I am sure, we must today at least spare the Sardar of the trouble that would be involved in replying to this debate. I am, therefore, taking the responsibility on my shoulders. I must also say that I have had no previous consultation with him and so, I do not know, whether I would be exactly representing the views of the Home Ministry on the subject that I am speaking.

Sir, this question of the law's delay is a long cry that we have been hearing in this country and the Government of India, if I remember correctly, at one time appointed a Committee the Civil Justice Committee—and some of the recommendations made by that Committee were incorporated both in the Civil Procedure Code as well as in the Criminal Procedure Code with the object of avoiding delay in the matter of coming to conclusions so far as litigation was concerned. At the same time that unfortunately has not in any way softened the complaint which we are now hearing about the law's delay. In my judgment and I think both my honourable friends, Dr. P. S. Deshmukh and Shrimati Durgabai, who have had considerable experience of practice in the Courts will agree that much of the delay that takes place in litigation is really due to the clients themselves. So far as my experience goes, in law courts every client on an appointed day instead of coming prepared either with the witnesses or with the

*C. A. (Leg). D., Vol. 3, Part II, 31st March 1949, pp. 2151-53.

documents or some other *subpoena* that has been issued by the court, comes with nothing except a petition asking for a postponement. If the postponement is not granted, he either abandons his pleader thinking that he has no influence with the judge, because he has not been able to get the adjournment or postponement or he becomes thoroughly dissatisfied and the court has to consider whether in the interests of avoiding delay his application should be rejected. It may be that in view of the ignorance of our general mass of population they cannot be expected to be prepared with everything at the appointed time, and if they are not given time, even though their cause may be very just, it may be lost.

Secondly, so far as the procedural law is concerned, there is all the method and all the rules necessary for avoiding delay. If our people who want to litigate about matters of dispute were more expeditious, more efficient and more alert in collecting their evidence, they themselves would avoid a great deal of delay that takes place in the matter of litigation.

Dr. P. S. Deshmukh : What about the delays in the High Courts ?

The Honourable Dr. B. R. Ambedkar: Well, the delays in the High Courts also to a large extent are due to this fact. My honourable friend probably does not know, as I happen to know, that many of our people believe in astrology. When they are told that their case is fixed on a particular date, they first go to the astrologer to find out whether that is an auspicious day, and if they find that it is not an auspicious day, they run up to Bombay and get in touch with the office of the Registrar of the High Court, sometimes bribe the clerks heavily in order to take the case of the board on that particular day. I know many such cases. Therefore, we have done so far as procedural law is concerned to avoid delay.

Shrimati G. Durgabai: Is not delay due to the printing of the records which takes a very long time ?

The Honourable Dr. B. R. Ambedkar: Well, I suppose, in view of the fact that the Privy Council has laid down that

all cases which come to them must have the records printed, the High Court has to follow that rule. Probably the Supreme Court hereafter may follow a different rule, we cannot say.

With regard to the lower judiciary, there is certainly much room for improvement. I quite agree that our judicial stations so to say, the towns where the Sub-Judges sit are sometimes very far away from the villages, and the villagers have to incur large expenses for travelling from their villages to the places where they are situated. I have sometimes thought whether it would not be desirable for our Sub-Judges or some others subordinate to the Sub-Judges to go on what we may call circuit. You can have a circuit of six or seven in the villages which this man can visit from week to week, and hear the cases right in the villages. That, I think, is a feasible thing. I must say that that is a matter which is entirely within the power of the Provincial Governments. It is they who can reorganise the judiciary in terms of my suggestion if they think that that is a suggestion worth accepting.

With regard to the question of court fees, that again is a matter which is entirely within the purview of the Provincial Governments. If the Provincial Governments think that court fees are so fixed that they are beyond the capacity of the litigants, it is for them to lower the court fees and give relief to the litigant public in that manner. With regard to the question of legal aid, there is *no* doubt that there is a necessity for doing something in that behalf. As every one knows, the British Parliament has recently passed an Act making it a national responsibility to provide aid to a litigant who is unable to find money for his litigation. However valuable that step might be it seems to me that having regard to the economic capacity of the people of our country, it would be perhaps impossible to place such a burden upon the national revenues of the country. There is no doubt that some other method might, be found whereby some amount of partial relief may be given to people who are indigenous and who. have important questions of law to be settled.

Something was said with regard to the Law Revision committee. It seems to me that there is a certain amount of

misunderstanding about that matter. There is no doubt in England there is a Statute Law Revision Committee ; but its function is a very limited one. I have with me the Statute Law Revision Committee Act passed in 1927. It is an act which, is passed from time to time by the Parliament. The object of the Statute Law Revision Act is to delete from the Statute book of laws which have become spent, whose purposes have been served and which are not in force, and things of that sort. It is only to clear the dead wood, so to say, from the Statute book of laws which have become unnecessary. Here, I find that the Statute Law Revision Committee was appointed in 1921. Although the intention of the Government of India when they appointed that Committee was very much the same as embodied in the British Statute, it somehow took upon itself quite a different species of work namely to suggest to the Government certain laws which they themselves drafted. I do not know whether that sort of a thing is necessary. Because, the drafting of laws is entirely a matter for the Government and the drafting is entirely left to the draftsmen who are engaged in the Law Department. From that point of view, therefore, the Law Revision Committee does not appear to me very necessary unless it is found that the Law Department, by reason of the shortness of its personnel is not able to depute somebody whose duty would be to see what laws have been spent, what are unnecessary and what have gone out of force. However, I shall keep the suggestion in my mind when the Government has the time to deal with this question.

With regard to the Federal Court, the question has been raised that the number of Judges is small for the work that is now pending before the court. The question was also raised that the Federal Court is not equipped with a library such as a Federal Court should have. I have not the least doubt in my mind that the Government of India will never be callous to the requirements of the Federal Court and of its library equipment. I have no doubt that this matter will be discussed when the Federal Court will be converted into the Supreme Court. There is not a very long time between the transferance of the Federal Court into the Supreme Court. Consequently, these reforms which have been suggested with regard to the

personnel of the Federal Court and its library equipment can well be delayed until the formation of the Supreme Court. I have no doubt about it that the Government of India will bear in mind the requirements of the library, as well as the number of judges that may be necessary to dispose of this work.

Mr. Speaker: I am putting the demands to the House.

The question is :

> "That a supplementary sum not exceeding Rs. 2,46,000 be granted to the Governor General to dafray the chargse which will come in course of payment during the year ending the 31st day of March 1949, in respect of administration of justice."

The motion was adopted.

(E)

*PAPERS LAID ON THE TABLE

Constitution (Removal of Difficulties) Orders

The Minister of Law (Dr. Ambedkar): I beg to lay on the Table the following documents under clause (2) of Article 392 of the Constitution :

(i) The Constitution (Removal of Difficulties) Order No. I (Made by the Governor-General on 7th January 1950)

(ii) The Constitution (Removal of Difficulties) Order No. II (Made by the President on 26th January 1950)

(iii) The Constitution (Removal of Difficulties) Order No. III (Made by the President on 26th January 1950)

(*Placed in the Library. See* No. P. 61/50).

(F)

**AIR FORCE BILL

Presentation of Report of Select Committee

The Minister of Law (Dr. Ambedkar): I beg to present the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Government of the Air Force.

(G)

***REPEALING AND AMENDING BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law)**:** Sir, I move :

> "That the Bill to repeal or amend certain enactments be taken into consideration."

I do not think, Sir, any speeches are necessary because this is a very routine measure. There were certain enactments passed during the War; the powers given by them have exhausted ; some

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* P. D., Vol. 1, Part II, 14th February 1950, p. 497.

**P. D., Vol. 3, Part II, 21st March 1950, p. 1895.

***C.A. (Leg.) D., Vol. 3, Part II, 11th December 1947, p. 1727.

of them have come to an end. It is very desirable that the Statute Book which has been so heavily burdened by these, should be pruned and curtailed. Sir, I move.

Mr. Speaker: Motion moved:

"That the Bill to repeal or amend certain enactments be taken into consideration."

Shri M. Ananthasayanam Ayyangar (Madras : General)**:** Sir, I do not want to take up your time, but I am only sorry that he has not added to the list of the hundred and fifty odd, the Government of India Act.

Mr. Speaker: The question is:

"That the Bill to repeal or amend certain enactments be taken into consideration."

The Motion was adopted.

Clauses 2 to. 4 were added to the Bill.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That the Bill be passed."

The motion was adopted.

***The Honourable Dr. B. R. Ambedkar** (Minister of Law): Sir, I beg for leave to introduce a Bill to repeal certain enactments and to amend certain other enactments.

Mr. Deputy Speaker: The question is:

"That leave be granted to introduce a Bill to repeal certain enactments and to amend on other enactments."

The motion was adopted.

The Honourable Dr. B. R. Ambedkar: Sir, I introduce the Bill.

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*C.A. (Leg.) D., Vol. 2, Part II, 1st March 1949, p. 989.

(H)

* STANDING COMMITTEE FOR THE MINISTRY OF LAW

The Minister of Law (Dr. Ambedkar): I beg to move :

"That this House do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve on the Standing Committee to advice on subjects dealth with in the Ministry of Law for the unexpired portion of the current financial year *vice* Dr. P. K. Sen who died on the 17th November, 1950."

The Motion was adopted.

Mr. Speaker: I have to inform hon. Members that the following dates have been fixed for receiving nominations and holding elections, if necessary, in connection with the following Committees, namely:

	Date for Nomination	Date for election
(1) Standing Committee for the Ministry of Home Affairs.	1-12-50	4-12-50
(2) The General Silk Board.		
(3) The Central Committee of the Tuberculosis Association of India.		
(4) The Standing Finance Committee for Railways.		
(5) Standing Committee for the Ministry of Law.	1-12-50	5-12-50

The Nominations for these committees will be received in the Parliamentary Notice Office upto 12 Noon on the date mentioned for the purpose. The elections which will be conducted by means of the single transferable vote, will be held in the Assistant Secretary's room No. 21 in the Parliament House between the hours 10-30 a.m. and 1-00 p.m.

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*P.D., Vol. 6, Part II, 29th November 1950, pp. 845-48.

(I)

* TRADE UNIONS BILL

Presentation of Report of Select Committee

The Minister of law (Dr. Ambedkar): I beg to present to the Report of the Select Committee on the bill to provide for the registration and recognition of trade unions and in certain respects to define the law relating to registered and recognised trade unions and to certain unfair practices by employers and recognised trade unions.

12 Noon

(J)

Constitution (Removal of difficulties) Orders Nos. VI to VIII

** **The Minister of Law (Dr. Ambedkar)** : I beg to lay on the Table the following documents under clause (2) of article 392 of the Constitution:

(i) The Constitution (Removal of Difficulties) Order No. VI (Made by the President on 2nd September 1950),

(ii) The constitution (Removal of Difficulties) Order No. VII (Made by the President on 7th October 1950), and

(iii) The constitution (Removal of Difficulties) Order No. VIII (Made by the President on 25th October 1950).

(*Placed in Library, See* No. P. 116/50)

(K)

*** Constitution (Removal of Difficulties) Orders Nos. IV and V

The Minister of Law (Dr. Ambedkar): I beg to lay on the Table the following documents under clause (2) of Article 392 of the Constitution :

(i) The Constitution (Removal of Difficulties) Order No. IV (Made by President on 24th May 1950) [Placed in Library, *See* No. P-92/50],

(ii) The Constitution (Removal of Difficulties) Order No. V (Made by the President on 6th June 1950) [Placed in Library, *See* No. P-93/50].

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* P.D., Vol. 6, Part II, 1st December 1950, p. 1066.

** P.D., Vol. 6, Part II, 20th Novenber 1950, pp. 266-67.

*** P.D., Vol. 5, Part II, 1st August 1950, p. 21.

***The Minister of Law (Dr. Ambedkar):** I beg to move for leave to introduce a Bill further to amend the Code of Civil Procedure, 1908.

Mr. Speaker: The question is :

> "That leave be granted to introduce a Bill further to amend the Code of Civil Procedure, 1908."

The Motion was adopted.

Dr. Ambedkar: I introduce the Bill.

(L)

**PAPERS LAID ON THE TABLE

Constitution (Removal of Difficulties) Order No. II (Third Amendment) Order

The Minister of Law (Dr. Ambedkar): I beg to lay on the Table a copy of the Constitution (Removal of Difficulties) Order No. II (Third Amendment) Order, 1951, made by the President on the 16th August 1951, under clause (2) of article 392 of the Constitution. [*Placed in Library, See* No. P. 197/51.]

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* P. D., Vol. 7, Part II, 18th December 1950, p. 1835.

** P. D., Vol. 14, Part II, 27th August 1951, p. 1363.

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